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ACTS
AND
RESOLVES

PASSED BY THE
General Court of Massachusetts
IN THE YEAR

2005

PUBLISHED BY
William Francis Galvin
SECRETARY OF THE COMMONWEALTH

The General Court, which was chosen November 2, 2004, assembled on Wednesday, the fifth day of January 2005 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 2005.

2005 ACTS AND RESOLVES

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Published by William Francis Galvin
Secretary of the Commonwealth

Chapter 1. AN ACT ESTABLISHING A SICK LEAVE BANK FOR VANESSA SCOTT-BROWN, AN EMPLOYEE OF THE SUPREME JUDICIAL 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 supreme judicial 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 supreme judicial court shall establish a sick leave bank for Vanessa Scott-Brown, an employee of the court. Any employee of the supreme judicial court, the appeals court or the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Vanessa Scott-Brown.

The foregoing was laid before the Governor on the Twentieth day of January, 2005 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 2. AN ACT DESIGNATING STALKING AWARENESS MONTH.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15YYYY the following section:-

Section 15ZZZZ. The governor shall annually issue a proclamation setting apart the month of January as Stalking Awareness Month, to increase the public's awareness of the deadly and serious crime of stalking, which affects both women and men in the commonwealth. The proclamation shall recommend that this month be observed in an appropriate manner by the people.

Approved February 1, 2005.

Chapter 3. AN ACT RELATIVE TO COMPENSATION OF MEMBERS OF THE GENERAL COURT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a compensation schedule for certain members of the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preserva-

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tion of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 3 of the General Laws is hereby repealed.

SECTION 2. Section 3 of chapter 192 of the acts of 1994, as most recently amended by section 2 of chapter 86 of the acts of 2000, is hereby further amended by striking out the fifth and sixth sentences and inserting in their place the following 2 sentences:- The president pro tempore of the senate, the speaker pro tempore of the house of representatives, the assistant floor leaders of each of the major political parties in the senate, the assistant floor leaders of each of the major political parties in the house of representatives, the second assistant floor leaders of each of the major political parties in the senate and house of representatives, the third assistant floor leaders of the minority party in the senate and house of representatives and of the majority party in the senate, the chairmen of each of the four divisions of the house of representatives, the chairman of the house committee on rules, the senate and house chairmen of the committee on bonding, capital expenditures and state assets, the vice chairman of the senate committee on ways and means, the vice chairman of the house committee on ways and means, the ranking minority members of the house and senate committees on ways and means, the chairman of the senate committee on post audit and oversight, the chairman of the house committee on post audit and oversight, the senate and house chairmen of the committee on state administration and regulatory oversight, the senate and house chairmen of the committee on health care financing, the senate and house chairmen of the committee on financial services, and the house chairman of the committee on economic development and emerging technologies shall each receive for each regular annual session \$15,000 additional compensation, and shall not receive any other additional compensation under this section. Chairmen of all other committees of the senate and the house of representatives established by the joint rules, or by the senate or house rules, the vice chairman of the house committee on rules, the ranking minority member of the house committee on rules, the vice chairman of the house committee on post audit and oversight, the assistant vice chairman of the senate committee on ways and means, the assistant vice chairman of the house committee on ways and means, the house vice chairman of the committee on financial services, the house vice chairman of the committee on health care financing, the house vice chairman of the committee on bonding, capital expenditures and state assets, the house ranking minority member of the committee on bonding, capital expenditures and state assets, the house vice chairman of the committee on state administration and regulatory oversight, the house vice chairman and the house ranking minority member of the committee on economic development and emerging technologies, and the senate and house ranking minority members of the committee on health care financing shall each receive for each regular annual session \$7,500 additional compensation for each such position.

SECTION 3. This act shall take effect as of January 5, 2005.

Approved February 4, 2005

Chapter 4. AN ACT RELATIVE TO EXPANDING THE MILITARY MISSION AT HANSCOM AIR FORCE BASE AND THE US ARMY SOLDIER SYSTEMS CENTER (NATICK).

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to stimulate employment and encourage the expansion of certain federal facilities at the Hanscom Air Force Base and the US Army Soldier Systems Center (Natick), therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The general court hereby finds that:

(a) Hanscom Air Force Base, located in the towns of Bedford, Lexington and Lincoln, is a uniquely important presence in the commonwealth and highlights the commonwealth's commitment to the security and defense of the United States of America;

(b) The US Army Soldier Systems Center (Natick) is a uniquely important presence in the commonwealth and highlights the commonwealth's commitment to the security and defense of the United States of America;

(c) Hanscom and Natick are economic engines for the commonwealth, which provide many benefits to the commonwealth in terms of jobs and other economic activity;

(d) Hanscom's and Natick's national defense mission is greatly enhanced by being located in the commonwealth due to their proximity to colleges, universities, research institutions, existing corporate vendors and an educated workforce specializing in research technology and such an environment is likely not reproducible anywhere else in the country;

(e) It would enhance the goals of Hanscom's and Natick's mission and the national defense of the United States as well as Hanscom's and Natick's value to the commonwealth if the mission capacity of Hanscom and Natick were expanded and if similar high technology programs in use throughout the United States Department of Defense and the United States Department of Homeland Security and other federal agencies were relocated to Hanscom and Natick;

(f) Not only would the nation's defense and the military benefit from such an expansion, but the commonwealth would greatly benefit through additional jobs and growth of the commonwealth's high technology cluster and the additional state revenues that would result therefrom;

(g) Such mission expansion at Hanscom and Natick would be far more likely to occur if the commonwealth were to invest funds in creating, updating and renovating the necessary infrastructure at or surrounding Hanscom; and

(h) The expansion of mission capacity at Hanscom and Natick is in the public interest of the commonwealth and serves a necessary and valid public purpose for which public money may be expended or invested.

SECTION 2. To provide for a program of economic development and improvement, the sums set forth in section 2 are hereby made available to MassDevelopment, subject to the

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laws regulating the disbursement of public funds and approval thereof, and subject to the prior approval of the secretary of administration and finance.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1100-1570 For the oversight and implementation of the Hanscom AFB
Mission Expansion Project \$242,000,000

1100-1580 For the oversight and implementation of the Soldier Systems
Center-Natick Mission Expansion Project \$19,000,000

SECTION 3. As used in the act, the following terms shall, unless the context otherwise requires, have the following meanings:

"Hanscom", the United States Air Force facility known as Hanscom Air Force Base and all of the land, buildings and other structures comprising Hanscom Air Force Base located in the towns of Bedford, Lexington and Lincoln.

"Hanscom AFB Mission Expansion Project", the planning, permitting, design, acquisition, purchase, ownership, lease, use, reuse, rehabilitation, renovation, improvement, furnishing, equipping, construction, reconstruction, operation, development, mortgaging and sale, or any combination of the foregoing, of Hanscom, and any components thereof in accordance with this act all in furtherance of the mission expansion, consisting of the development of up to 1,250,000 square feet of new space to accommodate new missions and relevant support personnel for Hanscom pursuant to specific requirements agreed to by the United States Department of Defense and representatives of the commonwealth, and such project shall also include the financing of construction and renovation of military housing units for Hanscom and, whenever appropriate, the term shall also mean all lands, buildings, structures, parking and appurtenances.

"MassDevelopment", the Massachusetts Development Finance Agency created and existing under chapter 23G of the General Laws.

"Natick", the United States Army facility known as Soldier Systems Center (Natick) and all of the land, buildings and other structures comprising the Soldier Systems Center (Natick) located in the town of Natick.

"Projects", the "Hanscom AFB Mission Expansion Project" and the "Soldier Systems Center-Natick Mission Expansion Project".

"Soldier Systems Center-Natick Mission Expansion Project", the planning, permitting, design, acquisition, purchase, ownership, lease, use, reuse, rehabilitation, renovation, improvement, furnishing, equipping, construction, reconstruction, operation, development, mortgaging and sale, or any combination of the foregoing, of Natick parcels, and any components thereof in accordance with this act all in furtherance of the mission expansion, consisting of the development of up to 110,000 square feet of new space to accommodate new missions and relevant support personnel for Natick pursuant to specific

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requirements agreed to by the United States Department of Defense and representatives of the commonwealth.

SECTION 4. MassDevelopment shall be a public agency or instrumentality of the commonwealth authorized and empowered to do all acts and things necessary or convenient to oversee and implement the projects including, without limitation, the acquisition, management and disposition of all or any portion of Hanscom or Natick, or interests therein, including improvements thereon, and including, without limitation, buildings and utility systems, equipment and personal property all in accordance with the terms of this act and upon the approval of the secretary of administration and finance. MassDevelopment may, for the purposes of implementing the projects, in its own name or in conjunction with others, license, lease or acquire title to the land, buildings and improvements that comprise all or any portion of Hanscom or Natick upon the transfer or disposition of any portion of Hanscom or Natick by the federal government. Implementation of the projects shall be a corporate purpose of MassDevelopment under chapter 23G of the General Laws, and specifically shall be deemed an exercise of its powers under clause (6) of section 3 of said chapter 23G.

SECTION 5. 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 the sum of \$261,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Military Mission Expansion Loan Act of 2005, 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. All such bonds shall be payable not later than June 30, 2030. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Notwithstanding any general or special law, bonds and interest thereon issued under this section shall be general obligations of the commonwealth.

SECTION 6. The governor shall not request the state treasurer to issue and sell bonds necessary to carry out any part of section 2 unless the commonwealth enters into an agreement with the United States Department of Defense to move new military missions and personnel to Hanscom or Natick.

Approved February 4, 2005.

Chapter 5. AN ACT AUTHORIZING THE CITY OF BROCKTON TO INSTALL, FINANCE AND OPERATE SOLAR ENERGY FACILITIES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the city of Brockton may design and install ground-mounted solar energy facilities at the 2 brown-

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fields parcels owned or leased by the city of Brockton located on opposite sides of Grove street, aggregating approximately 15 acres and previously owned by the Brockton Gaslight Company, prepare and improve the sites, acquire all equipment necessary for the solar energy facilities, make improvements and extraordinary repairs to the facilities, and pay all other costs incidental and related thereto.

SECTION 2. The city of Brockton may issue bonds or notes up to but not exceeding the sum of \$2,000,000 in the aggregate in order to finance all or a portion of the costs of the solar energy facility projects authorized pursuant to section 1. Notwithstanding chapter 44 of the General Laws to the contrary, the maturities of any such bonds issued by the city of Brockton under this act either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the city treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds or of any temporary notes issued in anticipation of the bonds shall be not later than 5 years from the estimated date of commencement of regular operation of the solar energy facilities financed thereby, as determined by the city treasurer, and the last payment of principal of the bonds shall be not later than 25 years from the date of the bonds. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the city under section 10 of said chapter 44, but, except as otherwise provided in this act, shall be subject to the provisions of said chapter 44.

SECTION 3. Notwithstanding any general or special law to the contrary, the city of Brockton may operate any solar energy facilities installed pursuant to section 1, sell any electricity generated from such facilities and sell any other marketable products resulting from its generation of solar energy at such facilities or from its generation of any type of renewable energy at any renewable energy facility which the city is authorized by law to operate, including electronic certificates created to represent the "generation attributes" as such term is defined under 225 CMR 14.02 of each megawatt hour of energy generated by the solar energy facilities or any such other renewable energy producing facilities. The mayor of the city of Brockton may enter into 1 or more contracts on behalf of the city of Brockton for the sale of electricity and other marketable products resulting from the generation of solar energy at the solar energy facilities with such parties and upon such terms and conditions as the mayor determines to be in the best interest of the city of Brockton, but any such contract shall be subject to the approval of the city council.

SECTION 4. The city of Brockton shall procure any services required for the design, installation, improvement, repair and operation of the solar energy facilities authorized pursuant to this act and the acquisition of any equipment necessary in connection therewith in accordance with the procurement requirements of chapter 30B of the General Laws, and the city of Brockton may procure any such services and equipment together as one procurement or as separate procurements thereunder.

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SECTION 5. The city of Brockton may establish an enterprise fund pursuant to section 53F ½ of chapter 44 of the General Laws for the receipt authorized pursuant to this act and from any other renewable energy producing facilities which the city is authorized by law to operate and all moneys received for the benefit of the solar energy facilities and any such other renewable energy facilities, other than the proceeds of bonds or notes issued therefor. Such receipts are to be used to pay costs of operation and maintenance of the solar energy facilities, to pay costs of future improvements and repairs thereto, and to pay the principal and interest on any bonds or notes issued therefor.

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

Approved February 17, 2005.

Chapter 6. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2005 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 beginning July 1, 2004, and to make certain changes in law, therefore it 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 2005, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated 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, 2005. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

SECTION 2.

JUDICIARY

Board of Bar Examiners

0321-0100	\$34,029
<i>Committee for Public Counsel Services</i>	
0321-1510	\$10,950,630
0321-1520	\$1,031,546
0321-2000	\$34,571

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EXECUTIVE

Secretary of the Commonwealth

0521-0000 \$74,848

STATE AUDITOR

Office of the State Auditor

0710-0000 \$375,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary for Administration and Finance

1599-1971 \$33,065,538

Department of Revenue

1232-0100 \$3,000,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

Department of Conservation and Recreation

2820-2000 \$733,466

2820-9005 \$1,452,674

EXECUTIVE OFFICE OF TRANSPORTATION

Department of Highways

6010-0002 \$1,700,000

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Department of Housing and Community Development

7004-9005 \$4,500,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Public Health

4510-0810 \$128,000

4512-0103 \$2,200,000

Department of Mental Health

5042-5000 \$1,702,047

Department of Youth Services

4200-0100 \$99,661

4200-0300 \$2,481,529

Department of Veterans' Services

1410-0400 \$992,026

EXECUTIVE OFFICE OF PUBLIC SAFETY

Department of State Police

8100-0007 \$3,950,000

Military Division

8700-0001 \$1,050,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from

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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 the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2005. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Office of the Secretary for Administration and Finance

- 1599-4051 For a reserve to meet the fiscal year 2005 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93 and the Service Employees International Union, AFL-CIO, Locals 888 and 509, and to meet the fiscal year 2005 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by that agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover those positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2005 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that \$25,000 of this appropriation shall be made available through June 30, 2006 \$9,544,917
- 1599-4123 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 Associ-

ation/NEA; the International Brotherhood of Police Officers, Local 432, Units A and B; the International Brotherhood of Teamsters, Local 25 (2 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 the payments shall fund the fiscal year 2004 payments associated with salary adjustments and other economic items provided for in the collective bargaining agreements; provided further, that, not later than 30 days from the effective date of this act, employees covered by the terms of the collective bargaining agreements in this item shall be paid a lump sum amount equal to the difference between: (a) the salary specified in the relevant agreement; and (b) the salary each received for the period from July 6, 2003 to December 31, 2003; provided further, that employees covered by the collective bargaining agreements in this item shall, subject to appropriation in fiscal year 2005 and thereafter, continue to be paid salaries in effect for fiscal 2004 until the parties to the collective bargaining agreements reach agreement or lawful impasse in negotiations for successor agreements; provided further, that the president of the University of Massachusetts shall expend these funds for such salary adjustments and other economic items in ac-

cordance with this item and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated in this item 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 in this item, notwithstanding chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E or any other general or special law to the contrary nor the expiration of any collective bargaining agreement and any contractual requirements 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 and shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the expiration of any collective bargaining agreement; provided further, that notwithstanding said chapter 150E 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 institution of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to or other than fiscal year 2004, as otherwise provided in the collective bargaining agreements . . . \$21,651,754

1599-4124 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 the payments shall fund the fiscal year 2004 payments associated with salary adjustments and other economic items provided for in such collective bargaining agreements; provided further, that, no later than 30 days from the effective date of this act employees covered by the collective bargaining agreements listed in this item shall

be paid a lump sum amount equal to the difference between: (a) the salary specified in the relevant agreement; and (b) the salary each received for the period from July 6, 2003 through December 31, 2003; provided further, that employees covered by the collective bargaining agreements in this item shall, subject to appropriation in fiscal year 2005 and thereafter, continue to be paid salaries in effect for fiscal 2004 until the parties to the collective bargaining agreements reach agreement or lawful impasse in negotiations for successor agreements; provided further, that the chancellor of higher education shall expend these funds for such salary adjustments and other economic items in accordance with this item and the terms of the collective bargaining agreements in this item; provided further, that funds appropriated in this item shall be transferred by the comptroller to the board of higher education based upon a schedule submitted by the chancellor 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 set forth in this item for the collective bargaining agreements in this item, notwithstanding chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E, or any other general or special law to the contrary or the expiration of any collective bargaining agreement and any contractual requirements 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 and shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the expiration of any collective bargaining agreement; provided further, that notwithstanding said chapter 150E 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 institution of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to or other than fiscal year 2004, as otherwise provided in such collective bargaining agreement \$8,291,573

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1599-4125 For a reserve to pay the collective bargaining costs for the Massachusetts Community College Council; provided, that the funds appropriated in this item shall be distributed by the board of higher education; provided further, that not less than \$156,684 shall be transferred to Berkshire Community College; provided further, that \$248,275 shall be transferred to Bristol Community College; provided further, that not less than \$309,007 shall be transferred to Bunker Hill Community College; provided further, that not less than \$160,889 shall be transferred to Cape Cod Community College; provided further, that not less than \$121,859 shall be transferred to Greenfield Community College; provided further, that not less than \$311,425 shall be transferred to Holyoke Community College; provided further, that not less than \$174,409 shall be transferred to Massachusetts Bay Community College; provided, further, that not less than \$345,378 shall be transferred to Massasoit Community College; provided further, that not less than \$293,827 shall be transferred to Middlesex Community College; provided further, that not less than \$190,158 shall be transferred to Mount Wachusett Community College; provided further, that not less than \$323,938 shall be transferred to North Shore Community College; provided further, that not less than \$272,575 shall be transferred to Northern Essex Community College; provided further, that not less than \$251,979 shall be transferred to Quinsigamond Community College; provided further, that not less than \$142,587 shall be transferred to Roxbury Community College; and provided further, that not less than \$479,857 shall be transferred to Springfield Community College \$3,782,850

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Department of Housing and Community Development

7004-1000 For a one-time state supplement to the federal Low Income Home Energy Assistance Program for the purpose of assisting low-income elders, working families and other households with the purchase of heating oil, propane and natural gas and electricity and other primary or secondary heating sources; provided, that expenditure of these supplemental funds shall

be made in accordance with the state plan submitted by the department of housing and community development in accordance with the federal program; and provided further that the department shall increase any previously established maximum assistance for which a household is eligible, in recognition of the state supplement \$7,500,000

EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT
Department of Business and Technology

7007-9020 For the Massachusetts Office of Travel and Tourism; provided, that the office shall grant not less than \$2,000,000 to the Massachusetts International Marketing Partnership, Inc. for international tourism marketing efforts; provided further, that the grant shall be made not later than June 30, 2005; and provided further, that the grant shall be contingent upon certification by the comptroller that \$2,000,000 has been transferred by the Massachusetts International Trade Council, Inc. from the Massachusetts International Tourism Fund, established pursuant to section 60 of chapter 141 of the acts of 2003, to the General Fund \$2,000,000

SECTION 3. Section 133 of chapter 6 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 12, the words "twenty per cent" and inserting in place thereof the following word:- 20 degrees.

SECTION 4. Section 4 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 144 and 145, the words "or for which said veteran receives a federal military pension".

SECTION 5. Section 2 of chapter 40R of the General Laws, as appearing in section 92 of chapter 149 of the acts of 2004, is hereby amended by striking out the definition of "Density bonus payment" and inserting in place thereof the following definition:-

"Density bonus payment", a one-time payment to a municipality from the trust fund, established in section 35AA of chapter 10 for each housing unit of new construction that is created in a smart growth zoning district.

SECTION 6. Said section 2 of said chapter 40R, as so appearing, is hereby further amended by striking out the definition of "Trust fund" and inserting in place thereof the following definition:-

"Trust fund", the Smart Growth Housing Trust Fund, established by section 35AA of chapter 10.

SECTION 7. Section 5K of chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

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In no instance shall the amount by which a person's property tax liability is reduced in exchange for the provision of services be considered income, wages, or employment for purposes of taxation as provided in chapter 62 , for the purposes of withholding taxes as provided in chapter 62B , for the purposes of workers' compensation as provided in chapter 152 or any other applicable provisions of the General Laws, but such person while providing such services shall be considered a public employee for the purposes of chapter 258 , but such services shall be deemed employment for the purposes of unemployment insurance as provided in chapter 151A .

SECTION 8. Section 12 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The city, town or regional school district in which each school-age child in any institution described in this section would normally be eligible to attend school and the city, town, or regional school district in which each day student admitted to an institution under the control of the department of public health and receiving educational services from the department of education would normally be eligible to attend school shall pay to the commonwealth the costs of the education of that child in the school department of that institution in an amount determined according to the regulations issued under section 10. The payment for each such child shall not be less than its average per pupil cost for pupils of comparable age within the city, town or regional school district. The amount due the commonwealth each year shall be deducted from the annual distribution to said city, town or regional school district pursuant to section 20 of chapter 59 .

SECTION 9. Paragraph (F) of section 5K of chapter 111 of the General Laws is hereby amended by striking out the last sentence, as amended by section 297 of chapter 26 of the acts of 2003, and inserting in place thereof the following sentence:- The department may make a collection based on this assessment directly from the electric companies and from the operator of each existing nuclear plant and deposit the monies into the Radiation Control Trust account.

SECTION 10. Paragraph (G) of said section 5K of said chapter 111 is hereby amended by striking out the last sentence, as amended by section 154 of chapter 149 of the acts of 2004, and inserting in place thereof the following sentence:- The department may make a collection based on this assessment directly from the electric companies and from the operator of each existing nuclear power plant and deposit the monies into the Radiation Control Trust account.

SECTION 11. Section 1 of chapter 115 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 51, the words "three years continuous residence in the commonwealth" and inserting in place thereof the following words:- resided in the commonwealth for 1 day.

SECTION 12. Section 5 of said chapter 115, as so appearing, is hereby amended by

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striking out, in line 4, the words "continuously for three years next" and inserting in place thereof the following words:- for 1 day.

SECTION 13. Said chapter 115 is hereby further amended by striking out section 6A, as so appearing, and inserting in place thereof the following section:-

Section 6A. As used in this section and in sections 6B and 6C, the word "veteran" shall mean a person who has performed service as defined in clause Forty-third of section 7 of chapter 4 and whose last discharge or release from the armed forces of the United States was under other than dishonorable conditions and who is a resident of the commonwealth.

SECTION 14. Section 32A of chapter 118E of the General Laws is hereby repealed.

SECTION 14A. Item 0339-1001 of section 2 of chapter 149 of the acts of 2004 is hereby amended by striking out the words "utilizing tamper free ankle bracelets".

SECTION 15. Section 2 of chapter 149 of the acts of 2004 is hereby amended by striking out the item number "1102-3305" and inserting in place thereof the following item number:- 1102-3306.

SECTION 16. Section 344 of said chapter 149 is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The joint committee on education shall review the recommendations of the advisory committee on early education and care submitted pursuant to subsection (a) and the recommendations of the council on early education and care submitted pursuant to subsection (b). The joint committee on education shall make legislative and budgetary recommendations to the general court necessary to create a consolidated, universal, voluntary, high quality early education and care system, by filing any such recommendations, together with any legislation necessary to carry such recommendations into effect, with the clerk of the house of representatives, or the clerk of the senate on or before March 18, 2005.

SECTION 17. The last sentence of section 2 of chapter 253 of the acts of 2004 is hereby amended by striking out the word "February 1, 2005" and inserting in place thereof the following word:- April 1, 2005.

SECTION 18. Section 2A of chapter 290 of the acts of 2004 is hereby amended by striking out the item number "0330-2210" and inserting in place thereof the following item number:- 0330-2223.

SECTION 19. Section 2E of said chapter 290 is hereby amended by striking out the item number "4000-7997" and inserting in place thereof the following item number:- 4000-7998.

SECTION 20. Said section 2E of said chapter 290 is hereby further amended by striking out the item number "4000-8200" and inserting in place thereof the following item number:- 4000-8202.

SECTION 21. Said section 2E of said chapter 290 is hereby further amended by striking out the item number "7004-7013" and inserting in place thereof the following item number:- 7004-7018.

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SECTION 22. Section 2A of chapter 304 of the acts of 2004 is hereby amended by striking out the item number "8000-0018" and inserting in place thereof the following item number:- 8000-0034.

SECTION 23. Said section 2A of said chapter 304 is hereby further amended by striking out the item number "8000-0050" and inserting in place thereof the following item number:- 8000-0035.

SECTION 24. Section 2 of chapter 352 of the acts of 2004 is hereby amended by striking out the item number "1102-3305" and inserting in place thereof the following item number:- 1102-3306.

SECTION 25. Said section 2 of said chapter 352 is hereby further amended by striking out the item number "4000-0896" and inserting in place thereof the following item number:- 4000-0870.

SECTION 26. Section 2A of said chapter 352 is hereby amended by striking out the item number "7002-0011" and inserting in place thereof the following item number:- 7002-0012.

SECTION 27. Said section 2A of said chapter 352 is hereby further amended by striking out the item number "7066-0115" and inserting in place thereof the following item number:- 7066-0120.

SECTION 28. Section 2E of said chapter 352 is hereby amended by striking out the item number "7004-0089" and inserting in place thereof the following item number:- 7004-0088.

SECTION 28A. Section 140 of said chapter 352 is hereby repealed.

SECTION 29. Section 1 of chapter 344 of the acts of 2004 is hereby amended by striking out the definitions of "Parcel 1" and "Parcel 2" and inserting in place thereof the following definitions:-

"Parcel 1" is comprised of two parcels and described as follows:

(a) The parcel of land, with all buildings thereon, commonly known as 600 Suffolk Street and located on the northerly side of Suffolk Street in Lowell, Middlesex County, Massachusetts, being shown as Phase I as shown on a "Compiled Plan of Land In Lowell, Mass. For Wannalancit Office and Technology Center Realty Trust", Scale 1"=20', dated March 25, 1983, by Robert M. Gill & Associates, Inc., Civil Engineers & Surveyors, Lowell, Mass. (the "Plan"), which Plan is recorded with the Middlesex North District Registry of Deeds at Plan Book 140, Plan 1, containing 43,369 square feet of land, more or less and (b) The parcel of land situated in Lowell, Middlesex County, Massachusetts, commonly known as 661 Suffolk Street, being shown as Lot C on Plan entitled "Compiled Plan of Land in Lowell, Mass." Dated September 13, 1982, Scale 1"=40', prepared by Robert M. Gill & Associates, Inc., Lowell, Massachusetts, which Plan is recorded with the Middlesex North District Registry of Deeds at Plan Book 137, Plan 121; EXCEPTING from Lot C described

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above so much of the premises as was taken by the Commonwealth of Massachusetts by instrument recorded with the Middlesex North District Registry of Deeds at Book 3839, Page 70, and so much of the premises as is included within the so-called Western Canal. For title of Commonwealth, see Quitclaim Deed the Commonwealth of Massachusetts by instrument recorded with the Middlesex North District Registry of Deeds at Book 3839, Page 70, and so much of the premises as is included within the so-called Western Canal. For title of Commonwealth, see Quitclaim Deed recorded with the Middlesex North District Registry of Deeds in Book 08236, Page 173.

"Parcel 2" is comprised of nineteen parcels, known as the St. Joseph's Hospital property located at 220 Pawtucket Street and other streets in the vicinity thereof, in the city of Lowell, Middlesex County, containing approximately 5.104 acres, more or less, together with all the buildings, and described as follows:

Parcel 1

A certain parcel of land with the buildings and improvements thereon situated on the southwesterly side of Merrimack Street, the southwesterly side of Pawtucket Street and the northeasterly side of Salem Street in Lowell, Middlesex County, Massachusetts.

Containing according to said plan, 93,668 square feet.

A portion of the premises above described is registered land and is the same premises described in Certificate of Title No. 18830 and shown on Plan 8373 A, a copy of a portion of which is filed with Certificate of Title No. 1755 in the Middlesex North Registry District of the Land Court.

Said Premises are shown on a plan of land in Lowell, Mass. Compiled for St. Joseph's Hospital, Inc. dated October, 1972, by Emmons, Fleming & Bievenue, Inc. Engineers & Surveyors and recorded with the Middlesex North District Registry of Deeds in Plan Book 115, Plan 161.

Parcel 2.

That certain parcel of land situated in Lowell, Middlesex County, Massachusetts.

All of said boundaries are determined by the Land Court to be located as shown on subdivision plan 3103-B, drawn by Michael S. Szoc, Surveyor, dated August 18, 1959, as approved by the Court, filed in the Land Registration office, a copy of a portion of which is filed with Certificate of Title 11083, and said land is shown as Lot one (1) on said plan.

Parcel 3.

That certain parcel of land situated in Lowell, Middlesex County, Massachusetts.

All of said boundaries are determined by the Land Court to be located as shown on subdivision plan 3103-B, drawn by Michael S. Szoc, Surveyor, dated August 18, 1959, as approved by the Court, filed with the land Registration Office, a copy of a portion of which is filed with Certificate of Title 11083, and said land is shown as Lot two (2) on said plan.

Parcel 4

That certain parcel of land situated in Lowell, Middlesex County, Massachusetts.

All of said boundaries are determined by the Land Court to be located as shown on subdivision plan 3103-B, drawn by Michael S. Szoc, Surveyor, dated August 18, 1959, as

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approved by the Court, filed with the land Registration Office, a copy of a portion of which is filed with Certificate of Title 11083, and said land is shown as Lot five (5) on said plan.

Parcel 5

That certain parcel of land situated in Lowell, Middlesex County, Massachusetts.

All of said boundaries are determined by the Land Court to be located as shown on subdivision plan 3103-B, drawn by Michael S. Szoc, Surveyor, dated August 18, 1959, as approved by the Court, filed with the Land Registration office, a copy of a portion of which is filed with Certificate of Title 11083, and said land is shown on Lot six (6) on said plan.

Parcel 6

That certain parcel of land situated in Lowell, Middlesex County, Massachusetts.

All of said boundaries are determined by the Land Court to be located as shown on subdivision plan 3103-B, drawn by Michael S. Szoc, Surveyor, dated August 18, 1959, as approved by the Court, filed in the Land Registration Office, a copy of a portion of which is filed with Certificate of Title 11083, and said land is shown as Lot seven (7) on said plan.

Parcel 7

The land with the building thereon, if any, situated on the southerly side of Salem Street and commonly known and numbered as 294-322 on said street, Lowell, Middlesex County, Massachusetts and thus bounded:

Beginning at the northeasterly corner of premises on the southerly side of said street and at the Northwesterly corner of land of Joseph Plunket, now or formerly, which corner is 50 feet Westerly from the intersections of the Southerly side of Salem Street and the Westerly side of Dane Street;

Thence S 43 30' on said Plunket land, 112.53 feet to land of Arthur and Parmelia Vallee, now or formerly;

Thence N 46 45' W on said last mentioned land and on land of Arthur and Lena Petren, now or formerly, 90 feet to the Northwesterly corner of said Petren land;

Thence S 37 40' on said Petren Land 2.83 feet to land of one Williams, now or formerly;

Thence Westerly at an angle of 102 36' on said Williams land 29.15 feet to an angle;

Thence Northwesterly at an angle of 113 10' still on said Williams land 59.23 feet to Salem Street;

Thence Northeasterly by a curved line on said Salem Street to the point of beginning. Be said contents, or any or all of said measurements more or less, and however otherwise said premises may be measured, bounded or described.

Containing 14,362 square feet of land.

Parcel 8

The land with the buildings thereon, if any, situated on the southerly side of Pawtucket Street, Lowell, Middlesex County, Massachusetts, bounded and described as follows:

Beginning at the northwesterly corner of the premises at a point in said Pawtucket Street in range with the middle of the partition dividing in two the dwelling house partly on

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these premises and partly on the premises now or formerly of Margaret Gilman; thence running southerly through the middle of said partition and in range with the middle of said partition about ninety-six and 80/100 (96.80) feet to land of one Brown, now or formerly; thence easterly on said Brown land about twenty-seven and 14/100 (27.14) feet to a passageway; thence northerly on said passageway about eighty-nine and 20/100 (89.20) feet to said Pawtucket Street; thence westerly on said Pawtucket Street about twenty-one (21) feet to the point of beginning. Together with a privilege or right of way in said passageway.

Also the land in said Lowell, with the buildings thereon, situated on the southerly side of said Pawtucket Street, and thus bounded and described.

Beginning at the northwesterly corner of the premises at said Pawtucket Street at land now or formerly of Sabra Wright; thence running easterly on said Pawtucket Street about twenty-four and 20/100 (24.20) feet to a point opposite to and in range with the middle of the partition dividing in two the dwelling house partly on these premises and partly on the premises now or formerly of Hollis M. Gilman; thence running southerly through the middle of said partition and in range with the middle of said partition about ninety-six and 80/100 (96.80) feet to land formerly of Phineas Whiting, now supposed of one Bartlett; thence westerly on said Whiting land fourteen and 28/100 (14.28) feet to said Wright land; thence northerly on said Wright land about ninety-nine and 60/100 (99.60) feet to said Pawtucket Street at the point of beginning.

Parcel 9

The land situated on the southerly side of Pawtucket Street, Lowell, Middlesex County, Massachusetts, bounded and described as follows:

Beginning at a stake at the northwesterly corner of the premises on said Pawtucket Street at a point six (6) feet from the line of the easterly end of the building on land of the heirs of Phineas Whiting, now or formerly; thence south 17 degrees 10 minutes east fifty-nine (59) feet, nine (9) inches, to a stake; thence south 50 degrees 20 minutes east fifty-one (51) feet to a stake at land conveyed by the late Phineas Whiting to Osgood Dane; thence on said last named land and land of Cummings Barr, now or formerly, north 37 degrees 40 minutes east forty (40) feet to a stake; thence north 64 degrees 40 minutes west twenty-eight (28) feet, five (5) inches, to a stake; thence north 70 degrees 15 minutes west sixty (60) feet to a stake at said Pawtucket Street; thence on said street south 72 degree 50 minutes west forty (40) feet to the point of beginning.

Containing 3,800 square feet of land, more or less.

Parcel 10

The land situated on the southwesterly side of Salem Street and the northwesterly side of Whiting Street, commonly known as and numbered 236 on said Salem Street, Lowell, Middlesex County, Massachusetts and thus bounded:

Beginning at the easterly corner of said premises at a stone bound at the intersection of the southwesterly side of said Salem Street and the northwesterly side of said Whiting Street;

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Thence northwesterly along said Salem Street, 110.78 feet to land now or formerly of N.J. Lavoie;

thence at a right angle southwesterly by said last mentioned land and by lands now or formerly of L.A. Lavallee, Trustee, T.E. Savage, E. Marin, et al and C.E. Theriault, et al. 217.5 feet to land now of formerly of O. Turcotte, et al;

thence southeasterly by said last mentioned land, 110.11 feet to Whiting Street;

thence northeasterly along said Whiting Street 226 feet to the point of beginning.

Containing 24,650 square feet:

Parcel 11

A certain parcel of land with the buildings and improvements thereon situated on James Street in said Lowell, Middlesex County, Massachusetts, being shown as Lot B-5 on a plan entitled "Compiled Plan of Land IN Lowell, Mass. Prepared for St. Joseph's Hospital", dated February 16, 1983, Fleming, Bienvenue & Associates, Inc., Engineers & Surveyors, Billerica, Mass., recorded Middlesex North District Registry of Deeds, Plan Book 140, Plan 11.

Together with the benefits of utility easements set forth in two separate easement deeds, the first deed dated December 19, 1984, recorded in said 2927, Page 37 and the second deed dated October 29, 1984 recorded in said Registry, Book 2885, Page 178.

Together with the rights of ingress and egress by foot and by vehicles over that portion of Lots C-2D and B-3 shown as a 50' strip of land on a plan entitled "Compiled Plan of Land in Lowell, Mass. For St. Joseph's Hospital", dated August 29, 1977 recorded at Plan Book 124, Page 173, and together with the right and easement to park motor vehicles on Lot B-3 and rights over a right of way shown on said Plan as "Easement for Access Walkway" and over Lots C-3, C-3D and C-4 (which is also known as C-4A) and the elevated bridge over Merrimack Street, (but subject to rights of the public in general, and the City of Lowell in Merrimack Street), as set forth in License Agreement dated October 3, 1973 recorded in Book 2095, Page 679 and as reserved in Master Deed of the St. Joseph's Medical Office Condominium recorded in Book 2348, Page 512.

Parcel 12

The land with the buildings thereon situated in Lowell, Middlesex County, Massachusetts, on the southwesterly side of Dane Street, sometimes called Dane Avenue, and being thus bounded and described;

Beginning at a stone bound situated in the line of Dane Street, Avenue, at land formerly of one Martin, now or formerly of A. Tallard; thence Southwesterly by said Tallard land, land formerly of one Mountain and now or formerly of M. Galinas and Helene Galinas, 78.5 feet, more or less, to land formerly of one Burnham, now or formerly of Louis P. Turcotte; thence Northwesterly by said Turcotte land, land formerly of one Whiting and later of Edwin W. Bartlett, 112 feet more or less to land of one Kitterage, later of Ellen Lavigne, now or formerly of Salem Elias; thence Northeasterly by said last named land to Dane Street Avenue; thence Southeasterly by said Dane Street Avenue to the stone bound at point of beginning.

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Parcel 13

The land in Lowell, Middlesex County, Massachusetts situated on the northeasterly side of Salem Street, containing thirty-four hundred and thirty (3430) square feet, the buildings thereon now supposed to be number 235 on said Salem Street, and thus bound:

SOUTHWESTERLY on said Salem Street thirty-five (35) feet;

NORTHWESTERLY on land supposed to belong to Eugenia Kelepurs, now of formerly, ninety-eight (98) feet;

NORTHEASTERLY on the center line of a passageway sixteen feet wide, known as Decatur Avenue, thirty-five (35) feet; and

SOUTHEASTERLY on land supposed to belong to the Heirs of Jeremiah J. Dacey, now or formerly, ninety-eight (98) feet.

Parcel 14

The land in Lowell, Middlesex County, Massachusetts, with the buildings thereon, situated the intersection of the southerly side of Salem Street with the easterly side of Gage Street, and bounded and described as follows:

Beginning at the northeasterly corner of the premises at the northwesterly corner of land formerly of Patrick Dempsey; thence

SOUTHERLY on said Dempsey Land fifty-one feet; thence

WESTERLY by other land of the grantor forty-one feet; thence

NORTHERLY on said Gage Street, fifty-nine feet to said Salem Street, thence

EASTERLY on said Salem Street, forty-one feet to the point of beginning.

Parcel 15

The land with the buildings thereon situated in Lowell, Middlesex County, Massachusetts, shown as Lot c-4 on plan entitled "Compiled Plan of Land in Lowell, Mass., prepared for St. Joseph's Hospital", dated August 29, 1977 by Dana F. Perkins & Sons, Inc., recorded in Plan Book 124, Page 173.

Parcel 16

The land in said Lowell with the buildings thereon situated on the northwesterly side of Dane Street, being Lot 1 on a plan entitled "Plan of Land in Lowell, Mass., belonging to the Estate of Franklin Martin, Scale 10 feet to an inch, Surveyed March 31, 1903 by Smith & Brooks, C.E.'s", which plan is recorded in said Registry in Book of Plans 19, Plan 47, being bounded as follows:

NORTHEASTERLY by land now or formerly of J. Flynn, thirty-two and 42/100 (32.42) feet;

SOUTHEASTERLY by Dane Street, fifty-nine and 55/100 (59.55) feet;

SOUTHWESTERLY by Lot No. 2 on said plan, thirty-one and 88/100 (31.88) feet;

and

NORTHWESTERLY by Lot No. 3 on said plan, fifty-eight and 01/100 (58.01) feet. Containing one thousand eight hundred eighty-seven (1887) square feet.

Parcel 17

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The land situated on Dane Street Avenue in said Lowell with the buildings thereon containing about twenty-one hundred forty-four square feet and being Lot No. 3 on a plan entitled "Plan of Land in Lowell, Mass., belonging to Est. of Franklin Martin, Surv. March 31, 1903 by Smith and Brooks, C.E." and recorded in Middlesex North District Registry of Deeds, Plan Book 19, Plan 47.

Parcel 18

The land in said Lowell, with the buildings thereon, situated on the northeasterly side of a passageway called Dane Avenue, bounded and described as follows:

Beginning at the southeasterly corner of the premises on said passageway at land belonging to Arthur Vallee, et al; thence northerly along said Vallee land by the fence, 45 feet, more or less, to a fence separating the granted premises from other land belonging to the grantor; thence westerly along said last mentioned fence, 44 feet, more or less, to a stone post at other land of grantor;

Thence southerly along said last mentioned land and land formerly of Simons, now supposed to belong to one Vigneault, by the fence, 45 feet, more or less, to a stone post at said passageway;

Thence easterly along said passageway, 44 feet, more or less, to said Vallee land at the point of the beginning.

Parcel 19

The land in said Lowell, with the buildings thereon, situated on the southerly side of Salem Street and thus bounded and described:

Beginning at the northwesterly corner of the premises at said street and at the northwesterly corner of land now or formerly of Edward Bryerton; thence Southerly along said Bryerton land fifty-eight feet, more or less, to land now or formerly of Thomas Carroll, thence easterly along said Carroll land and land now or formerly of one Stone, twenty-eight feet, more or less to land now or formerly of Leavitt R.J. Varnum et al; thence northerly along said Varnum land fifty-eight feet, more or less, to said Salem Street, thence westerly along said Salem Street, thirty-three feet, more or less, to the point of beginning.

SECTION 30. Said chapter 344 is hereby further amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws, or any other general or special law or any rule or regulation to the contrary, the commissioner may convey to the owner of parcel 2 the parcel of state-owned land designated in section 1 as parcel 1, in exchange for the parcel of land designated in section 1 as parcel 2.

The exact boundaries of the parcels shall be determined by the commissioner in consultation with the campus and the university. Each parcel will be conveyed together and subject to any and all rights, restrictions and other matters of record pertaining thereto.

SECTION 31. Section 3 of said chapter 344 is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

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In order to determine the full and fair market values of parcel 1 and parcel 2, and as a condition precedent to the conveyance of the parcels, the commissioner shall require that an independent professional appraisal be performed on each parcel. The commissioner shall also require that an environmental report be prepared for each parcel which includes an assessment of the presence of hazardous materials as described in chapter 21E of the General Laws, and the costs, if any, of required remediation. The commissioner may accept for the purposes of this section appraisals and environmental reports of parcels 1 and 2 submitted to him, if the appraisals and reports were contracted effective date of this act and were conducted by professional persons approved by the commissioner and the inspector general agrees to accept said appraisals for review.

SECTION 32. Employees covered by the terms of the collective bargaining agreements in items 1599-4123 and 1599-4124 of section 2A who, after July 1, 2003, retired or otherwise terminated employment, or the beneficiary of such an employee who died after July 1, 2003, shall be paid, not later than 30 days after the effective date of this act, a lump sum amount equal to the difference between: (a) the salary specified in the relevant agreement; and (b) the salary each received for the time they were employed during the period July 6, 2003 to June 30, 2004; provided, however, that notwithstanding chapter 32 of the General Laws, the amount of the retirement allowance paid under said chapter 32 to an employee who prior to retirement was covered by the terms of the collective bargaining agreements in said items 1599-4123 and 1599-4124 of said section 2A and who retired after July 6, 2003, shall be calculated as though the employee's regular compensation for any period of employment from July 6, 2003 to June 30, 2004 had been received by the employee in accordance with such agreement and appropriate retirement deductions withheld. Appropriate adjustments shall be made to an employee's retirement allowance, including payments retroactive to the effective date of retirement.

SECTION 33. On the effective date of section 14, the comptroller shall transfer any remaining balance in the Long-Term Care Trust Fund to the General Fund.

This bill was returned on February 24, 2005, 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 2A: 1599-4123 1599-4124 1599-4125

SECTION: 32.

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 14A and 28A.

The remainder of the bill was approved by the Governor on February 24, 2005 at eleven o'clock and twenty minutes, A.M.

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The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on March 9, 2005 the House of Representatives and the Senate in concurrence passed the following Items:

SECTION 2A. Items: 1599-4123, 1599-4124. **SECTION 32.**

Chapter 7. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SEAN GLENNON, 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 department 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 Sean Glennon, an employee of the trial court. Any employee of the trial court may voluntarily contribute one or more sick, personal or vacation days to the sick leave bank for use by Sean Glennon. Whenever Sean Glennon 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 March 10, 2005.

Chapter 8. AN ACT RELATIVE TO THE USE OF TAMPER FREE ANKLE BRACELETS FOR THE TRACKING OF CERTAIN OFFENDERS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to clarify certain language relative to tracking certain sex offenders, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Item 0339-1001 of section 2 of chapter 149 of the acts of 2004 is hereby amended by striking out the words "tamper free", inserted by section 70 of chapter 352 of the acts of 2004.

SECTION 2. This act shall take effect as of February 24, 2005.

Approved March 15, 2005.

Chapter 9. AN ACT AUTHORIZING THE SCHOOL DEPARTMENT OF THE CITY OF REVERE TO BE OPEN ON CERTAIN HOLIDAYS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 12 and 13 of chapter 136 and chapter 71 of the General Laws and any other general or special law to the contrary, the school department of the city of Revere may, at the discretion of the school committee of the city, be open for business for all purposes including the instruction of students in classrooms on Thursday, March 17, 2005 and Friday, June 17, 2005.

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

Approved March 15, 2005.

Chapter 10. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JAMES E. VESEY, AN EMPLOYEE OF THE TRIAL COURT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish 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 law to the contrary, the trial court shall establish a sick leave bank for James E. Vesey, an employee of said trial court. Said James E. Vesey shall exhaust all of his sick, vacation, personal, and compensation time, before using any of the time donated to said sick bank. Any employee of said trial court may voluntarily contribute 1 or more of his sick, personal or vacation days to said sick leave bank for use by said James E. Vesey. Whenever said James E. Vesey terminates employment with said 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 March 15, 2005.

Chapter 11. AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO TRANSFER CERTAIN FUNDS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 13 of chapter 40 of the General Laws or any other general or special law to the contrary, the town of Arlington may transfer \$1,500,000

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from its Municipal Buildings Insurance Fund to its Stabilization Fund for such lawful purposes as subsequent town meetings may vote.

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

Approved March 24, 2005.

Chapter 12. AN ACT RELATIVE TO THE MINIMUM AGE FOR APPOINTMENT AS A POLICE OFFICER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to allow certain persons to take the civil service examination for police officer, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding section 58 of chapter 31 of the General Laws or any other general or special law to the contrary, any otherwise eligible person shall be eligible to take the April 2005 examination for original appointment to the position of police officer in any city or town if he will not have reached his twenty-first birthday on or before the final date for the filing of applications for such examination but shall have reached his twenty-first birthday on or before the date of the examination.

Approved March 24, 2005.

Chapter 13 AN ACT ESTABLISHING THE OFFICE OF COLLECTOR-TREASURER IN THE TOWN OF SWANSEA.

Be it enacted, etc., as follows:

SECTION 1. The office of the collector-treasurer for the town of Swansea is hereby established. The treasurer-collector shall have the powers, perform the duties and be subject to the liabilities and penalties now or hereafter conferred as imposed by law on town treasurers and town collectors of taxes.

SECTION 20 Notwithstanding section 1, the incumbents in the offices of town treasurer and collector upon the effective date of this act shall continue to hold offices and perform the duties thereof until the expiration of the terms for which they were elected. The first treasurer-collector shall be elected at the first town election following the effective date of this act and the expiration of the terms of the incumbent treasurer and collector; but if the same person holds both offices on the effective date of this act, then the position of treasurer-collector shall take effect immediately upon the approval of the board of selectmen,

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the term to expire at the 2007 annual town election.

SECTION 3. This act shall take effect on April 12, 2005.

Approved March 30, 2005.

Chapter 14. AN ACT VALIDATING THE ACTIONS TAKEN AT A CERTAIN ELECTION HELD IN THE TOWN OF WEBSTER.

Be it enacted, etc., as follows:

SECTION 1. The actions of the town of Webster with regard to the placement of the office of selectman on the ballot to fill a vacancy at the May 2, 2005, annual town election, and those actions taken by the town in reliance thereon, including the issuance to registered voters of nomination papers for the office, the board of registrars' receipt of such nomination papers for filing, the certification by the board of registrars of signatures of registered voters affixed to such nomination papers, the town clerk's receipt of such certified nomination papers for filing, and the inclusion on the ballot of the names of candidates for the office whose nomination papers contained the requisite number of signatures, are hereby ratified, validated and confirmed, notwithstanding the failure to notify the town clerk in accordance with section 10 of chapter 41 of the General Laws.

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

Approved April 4, 2005.

Chapter 15. AN ACT AUTHORIZING THE APPOINTMENT OF TIMOTHY PACHECO AS A FIREFIGHTER IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the second paragraph of section 58 of chapter 31 of the General Laws or any other general or special law to the contrary regulating the maximum age of applicants for appointment as a firefighter, the personnel administrator of the human resources division shall certify Timothy Pacheco to be eligible for original appointment to the position of firefighter in the town of Arlington according to the grade he received on the examination for firefighter. If Timothy Pacheco meets all other requirements for certification as a firefighter, the town of Arlington may appoint him.

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

Approved April 6, 2005.

Chapter 16. AN ACT AUTHORIZING SHAWN McCLUSKEY AND ANTHONY D. FONTANA OF THE TOWN OF BILLERICA TO TAKE A CIVIL SERVICE EXAMINATION FOR ANY POSITION NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 31 of the General Laws or any other general or special law, rule or regulation to the contrary regulating the maximum age of applicants for appointment, Shawn McCluskey of the town of Billerica shall be eligible to take the next open competitive civil service examination for any civil service position in the town of Billerica and, if he meets all other requirements, shall be eligible for certification and appointment in the town of Billerica.

SECTION 2. Notwithstanding chapter 31 of the General Laws or any other general or special law, rule or regulation to the contrary regulating the maximum age of applicants for appointment, Anthony D. Fontana of the town of Billerica shall be eligible to take the next open competitive civil service examination for any civil service position in the town of Billerica and, if he meets all other requirements, shall be eligible for certification and appointment in the town of Billerica.

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

Approved April 22, 2005.

Chapter 17. AN ACT PLACING CERTAIN QUESTIONS ON THE ANNUAL ELECTION BALLOT IN THE TOWN OF SPENCER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 42C of chapter 54 of the General Laws or any other general or special law to the contrary, the town clerk of the town of Spencer shall print on the ballot for the May 2, 2005 annual town election 2 questions to the voters, as approved by the vote of the Spencer board of selectmen at its regularly scheduled meeting of March 28, 2005, and reading substantially as follows:-

Question 1: Shall the town of Spencer be allowed to assess an additional \$48,500 in real estate and personal property taxes for the purposes of providing of benefits for the town's firefighters and employees, firefighting equipment and expenses, and emergency response training for the fiscal year beginning July 1, 2005?

Question 2: Shall the town of Spencer be allowed to assess an additional \$415,258 in real estate and personal property taxes for the purpose of restoring 10 teachers and other educational services for the Spencer-East Brookfield Regional School District assessment for the fiscal year beginning July 1, 2005?

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

Approved April 27, 2005.

Chapter 18. AN ACT RELATIVE TO THE REPRESENTATIVE TOWN MEETING FOR THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 3 of chapter 302 of the acts of 1926 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any representative town meeting held under this act, except as otherwise provided in this act, shall be limited to the voters elected under section 2, together with the following, designated as town meeting members at large: any member of the general court of the commonwealth from the town, the moderator, the town clerk, the selectmen, the town treasurer, the chairman of the trustees of the public library, the chairman of the planning board, the chairman of the school board, the chairman of the board of assessors, the chairman of the board of health and the chairman of the finance or warrant committee.

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

Approved May 2, 2005.

Chapter 19. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF READING TO GRANT CERTAIN EASEMENTS.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the town of Reading may grant to the board of selectmen on behalf of the town an easement in a certain parcel of conservation land as shown on the town of Reading assessor's Map 47, Parcel 4, for access and utility purposes, including the construction, maintenance and repair of sewer pipes, water and drainage pipes, a sewer pumping station and appurtenances thereto.

SECTION 2. The conservation commission of the town of Reading may grant to Timothy F. Leary and Barbara Leary, their heirs, successors and assigns, a permanent easement over a certain parcel of conservation land as shown on the town of Reading assessor's Map 47, Parcel 4, the easement being approximately 540 feet in length and approximately 60 feet wide, for access by foot and by vehicle, to one single-family dwelling located at 113 Longwood Road and identified on the Reading assessor's Map 58, Parcel 5 and for underground and above ground utility connections only, and for no other purpose. This easement is for residential purposes only. The conservation commission may convey this easement upon such other terms and conditions as it deems appropriate to protect its interest in the parcel of land.

SECTION 3. The conservation commission of the town of Reading may grant to Louis Peterson, his heirs, successors and assigns, a permanent easement over a certain parcel of conservation land, as shown on the town of Reading assessor's Map 47, Parcel 4, the easement being approximately 420 feet in length and approximately 40 feet wide, for access

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by foot and by vehicle, to one single-family dwelling located at 111 Longwood Road, identified on the town of Reading assessor's Map 58, Parcel 10 and for underground and above ground utility and drainage connections only, and for no other purpose. This easement is for residential purposes only. The conservation commission may convey this easement upon such other terms and conditions as it deems appropriate to protect its interests in the parcel of land.

SECTION 4. The conservation commission of the town of Reading may grant to Johnson Woods Realty Corp., its heirs, successors and assigns, a permanent easement over a certain parcel of conservation land, as shown on the town of Reading assessor's Map 47, Parcel 4, the easement being approximately 300 feet in length and approximately 30 feet wide, for access by foot and by vehicle, to one single-family dwelling to be located at the southern end of a parcel of land identified on the Reading assessor's Map 58, Parcel 7 and for underground and above ground utility and drainage connections only, and for no other purpose. This easement is for residential purposes only. The conservation commission may convey this easement upon such other terms and conditions as it deems appropriate to protect its interests in the parcel of land.

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

Approved May 2, 2005.

Chapter 20. AN ACT RELATIVE TO THE COLLECTION OF CERTAIN TAXES IN THE TOWN OF SANDWICH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapters 59 and 60 of the General Laws, the town of Sandwich, acting through its board of selectmen, may waive interest on fiscal year 2004 real and personal property taxes assessed to Mirant Canal, LLC in an amount not greater than 4 percentage points of the amount of the tax assessed, in return for the immediate payment of the principal amount of those taxes.

SECTION 2. Notwithstanding section 3E of chapter 60 of the General Laws, the town may credit the entire amount of this payment to the principal amount of those taxes.

SECTION 3. Notwithstanding section 23 of chapter 59 of the General Laws, the director of accounts may update the certified free cash of the town of Sandwich on account of any payments of taxes the town receives after March 31, 2005 in connection with an agreement authorized by this act.

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

Approved May 2, 2005.

Chapter 21. AN ACT AUTHORIZING THE CITY OF WALTHAM TO CONSTRUCT A VETERANS MEMORIAL AND COMMUNITY BANDSTAND AND TO INSTALL CERTAIN PLAQUES ON OPEN SPACE LAND.

Be it enacted, etc., as follows:

SECTION 1. The city of Waltham may use, construct and reconstruct a veterans memorial and community bandstand on a certain parcel of open space in that city. The parcel is shown as Map 60, Block 20, Lot 01 on the map of the city of Waltham, which is on file in the office of the city engineer.

SECTION 2. The city of Waltham may install on this parcel plaques honoring veterans and notable individuals and events in the city's history.

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

Approved May 6, 2005.

Chapter 22. AN ACT AUTHORIZING THE TOWN OF WESTPORT TO CONVEY CERTAIN CONSERVATION LAND TO THE BOARD OF SELECTMEN FOR THE PURPOSE OF CONSTRUCTING A PUBLIC SAFETY COMPLEX.

Be it enacted, etc., as follows:

The conservation commission of the town of Westport may transfer the care, custody and control of all or a portion of 5 acres of town forest land to the board of selectmen of the town for the purpose of constructing a public safety complex. The parcel is located on the north side of Hix Bridge Road and westerly of route 88, as shown on Assessors' Plan 54, Lot 40 of the town of Westport. The town shall dedicate a future open space acquisition of similar ecological and natural resource value as replacement land for the transfer authorized by this act.

Approved May 6, 2005.

Chapter 23. AN ACT RELATIVE TO THE PAYMENT OF COSTS FOR SYSTEMS OF SEWERAGE AND SEWAGE DISPOSAL IN THE TOWN OF SHREWSBURY.

Be it enacted, etc., as follows:

Section 7 of chapter 502 of the acts of 1954, as amended by section 1 of chapter 215 of the acts of 1958, is hereby further amended by striking out the first sentence and inserting

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in place thereof the following sentence:- The town shall by vote determine the proportion of the cost of the system or systems of sewerage and sewage disposal that the town shall pay, but the town shall pay not more than $\frac{1}{4}$ of the entire cost of the system or systems of sewerage and sewage disposal.

Approved May 12, 2005.

Chapter 24. AN ACT VALIDATING THE ACTIONS TAKEN AT AN ANNUAL TOWN MEETING AND SPECIAL TOWN MEETING OF 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 to the contrary, the acts and proceedings taken by the town of Rockland at its 2004 annual town meeting held on May 10, 2004 and at its special town meeting held on May 10, 2004 and all actions taken pursuant thereto, are hereby ratified, validated and confirmed in all respects to the same extent as if the meetings had been called and held in full compliance with the town charter and other law.

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

Approved May 18, 2005.

Chapter 25. AN ACT REPEALING THE ACT OF 1675 ENTITLED "INDIANS PROHIBITED BEING IN BOSTON".

Be it enacted, etc., as follows:

The Act entitled "Indians prohibited being in Boston" of the Laws & Orders made at the sessions of the General Court held at Boston the 13th of October, 1675 is hereby repealed.

Approved May 20, 2005.

Chapter 26. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CAROL G. DAVIS, AN EMPLOYEE OF THE GEORGE FINGOLD LIBRARY.

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 George Fingold Library, 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:

Notwithstanding any general or special law, rule or regulation to the contrary, the George Fingold Library shall establish a sick leave bank for Carol G. Davis, an employee of the library. Any employee of the library may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Carol G. Davis. Whenever Carol G. Davis terminates employment with the library or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the extended illness leave bank.

Approved May 27, 2005.

Chapter 27. AN ACT ENHANCING REGENERATIVE MEDICINE IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to enhance regenerative medicine in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 111K the following chapter:-

CHAPTER 111L BIOTECHNOLOGY

Section 1. The general court finds and declares that:

(a) human embryonic stem cell research and other research in the life sciences and regenerative medicine present a significant chance of yielding fundamental biological knowledge from which may emanate therapies to relieve, on a large scale, human suffering from disease and injury;

(b) the extraordinary biomedical scientists working within institutions of higher education, research institutes, hospitals, biotechnology companies and pharmaceutical companies can contribute significantly to the welfare of mankind by performing outstanding research in these fields; and

(c) it shall be the policy of the commonwealth to actively foster research and therapies in the life sciences and regenerative medicine by permitting research and clinical applications involving the derivation and use of human embryonic stem cells, including research and clinical applications involving somatic cell nuclear transfer, placental and umbilical cord cells and human adult stem cells and other mechanisms to create embryonic stem cells which are consistent with this chapter. It shall further be the policy of the commonwealth to prohibit human reproductive cloning.

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Section 2. As used in this chapter the following words shall have the following meanings unless the context clearly requires otherwise:-

"Asexual", not initiated by the union of an oocyte and a sperm.

"Commissioner", the commissioner of public health.

"Council", the biomedical research advisory council.

"Department", the department of public health.

"Donated to research", when, in the absence of valuable consideration and after fulfillment of the requirements of informed consent, the person from whose cells the pre-implantation embryo has originated or will originate gives the pre-implantation embryo or cells to another person; provided, however, that the recipient shall use the extant or resultant pre-implantation embryo in biomedical research and shall not transfer the pre-implantation embryo to a uterus or uterine-like environment or nurture the pre-implantation embryo beyond 14 days of development.

"Embryo", an organism of the species homo-sapiens whether formed by fertilization, somatic cell nuclear transfer, parthenogenesis or other means.

"Employee", an individual who performs services for and under the control and direction of an employer for wages or other remuneration.

"Fertilization", the process whereby the male and female gametes unite to form an embryo.

"Gametes", a sperm or oocyte.

"Human adult stem cell", an undifferentiated cell found in a differentiated tissue that can renew itself and differentiate to yield specialized cell types.

"Human reproductive cloning", the asexual genetic replication of a human being by transferring a pre-implantation embryo that has been created by somatic cell nuclear transfer, parthenogenesis or by other asexual means into a uterus or uterine-like environment with the purpose of creating a human fetus or a human child.

"Informed consent", the written consent for the donation of gametes or embryos used for research conducted pursuant to this chapter which complies with the requirements of a duly appointed institutional review board, acting in accordance with 45 C.F.R. 46.116 and 45 C.F.R. 46.117, as may be amended from time to time. The written consent shall be in a language understandable to the donor or patient and shall include all reasonably foreseeable risks, discomforts or benefits of the procedure to the donor or patient.

"Institution", a corporation, association, partnership, nonprofit organization or other legal entity which conducts research authorized by this chapter.

"Institutional Review Board", a board that has a minimum of 5 members who meet regularly to review research applying the standards of 45 CFR Part 46 or 21 CFR Parts 50 and 56, as may be amended from time to time.

"In vitro", in an artificial environment, referring to a process or reaction occurring therein, as in a test tube or culture medium.

"In vitro fertilization", an assisted reproduction technique in which fertilization is accomplished outside of the human body.

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"Manager", an individual to whom an institution conducting research pursuant to this chapter has given the authority to direct and control the work performance of the affected employee and who has authority to take corrective action regarding a violation of a law, rule, regulation, activity or policy.

"Parthenogenesis", the development of an egg without fertilization.

"Parthenote", the product of egg development without fertilization.

"Person", a natural person, corporation, association, partnership or other legal entity.

"Placental cells", cells obtained from the placenta.

"Pre-implantation embryo", an embryo formed and maintained outside of the human body whether by in vitro fertilization, somatic cell nuclear transfer, parthenogenesis or other asexual means, which has not experienced more than 14 days of development; provided, however, that such length of time shall not include any interval in which such development has been suspended, such as through freezing.

"Public body", (a) the United States Congress, a state legislature, including the general court, or a popularly elected local government body, or a member or employee thereof; (b) a federal, state or local judiciary, or a member or employee thereof, or a grand or petit jury; (c) a federal, state or local regulatory, administrative or public agency or authority or instrumentality thereof; (d) a federal, state or local law enforcement agency, prosecutorial office or police or peace officer; or (e) a division, board, bureau, office, committee or commission of any of the public bodies described in clauses (a) to (d), inclusive.

"Public institutional review board", a board established pursuant to subsection (a) of section 6 that has a minimum of 5 members who meet regularly to review research applying the standards of 45 CFR Part 46 or 21 CFR Parts 50 and 56, as may be amended from time to time.

"Retaliatory action", the unlawful discharge, suspension, demotion, harassment, denial of promotion, layoff or other adverse action taken against an employee affecting the terms and conditions of employment.

"Somatic cell", a nongamete cell obtained from a living or deceased human being.

"Somatic cell nuclear transfer", the technique in which the nucleus of an oocyte is replaced with the nucleus of a somatic cell.

"Umbilical cord cells", cells derived from an umbilical cord.

"Uterine-like environment", a replicate of the uterus used for the purpose of sustaining an embryo through birth and creating a human being.

"Uterus", a uterus or fallopian tube.

"Valuable consideration", any consideration beyond reimbursement for reasonable costs incurred in connection with the donation, removal, processing, disposal, preservation, quality control, storage, transplantation or implantation of gametes, embryonic or cadaveric tissue.

Section 3. (a) Research and clinical applications involving the derivation and use of

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human embryonic stem cells, including somatic cell nuclear transfer, human adult stem cells from any source, umbilical cord cells, parthenotes and placental cells shall be permitted.

(b) Research involving the derivation of human embryonic stem cells through the use of human genetic material, including somatic cell nuclear transfer, parthenogenesis and other asexual means as permitted by subsection (a) shall only be conducted upon the written approval of a duly authorized institutional review board. The written approval of the institutional review board shall include a detailed description of the research, experimentation or study to be conducted and a detailed description of the research or a copy of the protocol, all of which shall be maintained as a permanent record by the board or by the hospital or institution for which the board acts.

Section 4. (a) A physician or other health care provider who provides a patient with in vitro fertilization therapy shall provide the patient with timely, relevant and appropriate information sufficient to allow that patient to make an informed and voluntary choice regarding the disposition of any pre-implantation embryos or gametes remaining following treatment. The physician shall present the patient with the options of storing, donating to another person, donating for research purposes or otherwise disposing of or destroying any unused pre-implantation embryos, as appropriate. The department shall prescribe and provide for use by physicians and other health care providers who treat patients for infertility through in vitro or any other process where an egg is extracted from a woman the following 2 documents, in multiple languages as determined by the department:

(1) an informational pamphlet, describing the procedure by which an egg is extracted from the patient, including all short and long-term potential health impacts of the procedure on the patient, any drugs or devices to be used, including whether they have received approval from the United States Food and Drug Administration, the risks involved, any discomfort and side effects that may be experienced, any alternatives which the patient may have and their attendant risks and benefits, medical treatment available to the patient should complications arise, and that the particular treatment may involve currently unforeseeable risks to the patient, embryo or fetus. A physician or other health care provider treating a woman with a procedure by which an egg is intended to be extracted shall provide the patient with this pamphlet or a legible copy thereof, and provide any other treatment information which may be specific to the patient's treatment; and

(2) an informed consent form, stating that the patient has been given and has reviewed and understands the informational pamphlet described in clause (1), has consulted with her physician or health care provider concerning the general procedures and her specific medical situation, and understanding the procedure, process and risks, consents to proceed with the procedure or process. The informed consent form shall also contain a "Notes" section, to be completed by the physician or health care provider. This notes section shall contain any medical information, alternative procedures, medicines, devices, considerations or risks relevant to the specific patient's informed consent to proceed and shall be completed by the physician or health care provider in each case. A physician or other health care provider treating a woman by a procedure by which an egg is intended to be extracted shall

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provide the patient with this form or a legible copy thereof, and shall keep a signed copy of this document in the patient's medical file.

(b) No physician or other health care provider shall provide this treatment before providing the patient with both the informational pamphlet and the informed consent form and without receiving, in return, a complete and fully executed informed consent form from the patient. A physician or other health care provider shall seek such informed consent only under circumstances that provide the prospective patient reasonable opportunity to consider whether or not to receive such treatment and that minimize the possibility of coercion or undue influence. The information that is given to the patient shall be in language understandable to the patient.

Section 5. (a) The department, in partnership with the University of Massachusetts Medical School at Worcester, shall, subject to appropriation, establish and maintain a public bank for the purpose of collecting and storing umbilical cord blood and placental tissue donated by maternity patients at participating hospitals. The bank shall make the umbilical cord blood and placental tissue available for research in accordance with section 3.

(b) Notwithstanding any general or special law to the contrary, all licensed hospitals shall inform pregnant patients under their care, not later than 30 days from the commencement of their third trimester of pregnancy, of the opportunity to donate blood and tissue extracted from the umbilical cord and placenta following delivery of a newborn child to a publicly accessible certified umbilical cord blood and placental tissue bank. Donations to research pursuant to this chapter shall be made at no expense to the donor. Nothing in this section shall prohibit a maternity patient from donating or storing blood extracted from the umbilical cord or placenta of the patient's newborn child to a private umbilical cord blood and placental tissue bank.

(c) Institutions conducting research pursuant to this chapter may reach agreement with the public umbilical cord blood and placental tissue bank to acquire donated umbilical cord blood or placental tissue for the purpose of conducting research. This agreement shall provide for the payment of the estimated expenses of the collection and storage of the donated umbilical cord blood and placental tissue, as well as any reasonable administrative fees established by the public umbilical cord blood and placental tissue bank.

(d) Nothing in this section shall obligate a hospital to collect umbilical cord blood or placental tissue if, in the professional judgment of a physician licensed to practice medicine in all its branches or of a nurse, the collection would threaten the health of the mother or child.

(e) Nothing in this section shall impose a requirement upon an employee, physician, nurse, or other medical staff to the extent that blood transfer conflicts with sincerely-held religious practices or beliefs.

(f) The department shall establish a program to educate maternity patients with regard to the subject of cord blood banking. This program shall provide such patients with sufficient information to make an informed decision on whether or not to participate in a private or public umbilical cord blood banking program. This program shall include, but not

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be limited to, an explanation of the difference between public and private umbilical cord blood banking, the medical process involved in umbilical cord blood banking, the current and potential future medical uses of stored umbilical cord blood, the benefits and risks involved in banking umbilical cord blood, and the availability and cost of public or private umbilical cord blood banks.

Section 6. (a) The University of Massachusetts Medical School at Worcester shall establish and maintain, subject to appropriation, a public institutional review board. The public institutional review board shall be available on an ongoing basis to an institution having not more than 50 full-time employees for review of that institution's experimentation, study and procedures for the purposes of conducting research pursuant to this chapter.

(b) An institution may access the services of the public institutional review board only through a written instrument of contract. The contract shall include the payment to the public institutional review board of a reasonable fee, calculated pursuant to a methodology approved by the University of Massachusetts Medical School to account for the costs of operating and maintaining the public institutional review board, and the relevant portion of those costs attributable to the particular institution receiving the benefit.

Section 7. (a) No employee shall be required to conduct scientific research, experimentation or study that involves the creation or use of pre-implantation embryos in relation to human embryonic stem cell research to the extent that such research conflicts with the sincerely-held religious practices or beliefs of the employee.

(b) An institution conducting research pursuant to this chapter, or an institution or person with whom an institution conducting research pursuant to this chapter has a contractual relationship, shall not take any retaliatory action against its employee because the employee:

(i) discloses or threatens to disclose to a manager or a public body an activity, policy or practice of the institution conducting research pursuant to this chapter, or of another institution conducting such research with whom the employee's institution has a contractual relationship, that the employee reasonably believes is in violation of this chapter; or

(ii) objects to, or refuses to participate in, any activity, policy or practice that the employee reasonably believes is in violation of this chapter.

(c) The protection against retaliatory action shall not apply to the public disclosure of confidential or proprietary information, trade secrets or other confidential materials unless such confidential disclosure is made by the employee directly to and exclusively with the office of the attorney general or the department. The department shall not publicly disclose any such confidential information but shall submit the information to the attorney general forthwith.

(d) Any employee aggrieved by a violation of this section may, within 2 years, file a complaint with the attorney general, who may bring an action in the name of the commonwealth against the institution alleged to have violated this section. Within 90 days of receiving a complaint, the attorney general shall notify the complainant in writing as to

whether he intends to bring an action in the name of the commonwealth. If the attorney general declines to bring an action based on the complaint filed, the aggrieved employee may, within 1 year, institute a civil action in the superior court. A party to that action may claim a jury trial. All remedies available in common law tort actions shall be available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided in this chapter. The court may: (i) issue temporary restraining orders or preliminary or permanent injunctions to restrain continued violation of this section; (ii) reinstate the employee to the same position held before the retaliatory action, or to an equivalent position; (iii) reinstate full fringe benefits and seniority rights to the employee; (iv) compensate the employee for 3 times the lost wages, benefits and other remuneration, and interest thereon; and (v) order payment by the institution of reasonable costs, and attorneys' fees.

(e) In any action brought by an employee under subsection (d), if the court finds the action was without basis in law or in fact, the court may award reasonable attorneys' fees and court costs to the institution.

(f) An employee shall not be assessed attorneys' fees under subsection (e) if the employee moves to dismiss the action against the institution or files for a dismissal, within a reasonable time after determining that the institution would not be found liable for damages.

(g) Nothing in this section shall diminish the rights, privileges or remedies of any employee under any other federal or state law or regulation, or under any collective bargaining agreement or employment contract, but the institution of a private action in accordance with subsection (d) shall be deemed a waiver by the plaintiff of the rights and remedies available to him, for the actions of the institution, under any other contract, collective bargaining agreement, state law, rule or regulation or under the common law.

(h) An institution shall publicly display notices reasonably designed to inform its employees of their protection and obligations under this section, and use other appropriate means to keep its employees so informed. Each notice posted pursuant to this subsection shall include the name of the person who has been designated by the institution to receive written notification of a suspected violation of this chapter.

Section 8. (a) Human reproductive cloning is hereby prohibited. No person shall knowingly attempt, engage in, or assist in human reproductive cloning. No person shall knowingly purchase, sell, transfer or otherwise obtain human embryonic, gametic or cadaveric tissue for the purpose of human reproductive cloning.

(b) No person shall knowingly create an embryo by the method of fertilization with the sole intent of donating the embryo for research. Nothing in this section shall prohibit the creation of a pre-implantation embryo by somatic cell nuclear transfer, parthenogenesis or other asexual means for research purposes.

(c) No person shall knowingly and for valuable consideration purchase, sell, transfer or otherwise obtain human embryos, gametes or cadaveric tissue for research purposes. Nothing in this section shall prohibit a person from banking or donating their gametes for personal future use, or from donating their gametes to another person or from donating their

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gametes for research. Nothing in this chapter shall prohibit or regulate the use of in vitro fertilization for reproductive purposes.

(d) A person who is found to have knowingly violated subsection (a) shall be punished by imprisonment in a jail or house of correction for not less than 5 years nor more than 10 years or by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$1,000,000. In addition to such penalty, and at the discretion of the court, a person who is found to have knowingly violated this section and derives a personal financial profit from such violation may be ordered to pay all or part of any such profits to the commonwealth as damages.

(e) A person who is found to have knowingly violated subsection (b) or subsection (c) shall be punished by imprisonment in a jail or house of correction for not less than 1 year nor more than 2 years or by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$100,000.

Section 9. (a) There shall be a biomedical research advisory council. The council shall consist of 15 members, 1 of whom shall be the secretary of health and human services, or his designee; 1 of whom shall be the commissioner of public health, or his designee; 1 of whom shall be a scientist designated by the dean of the University of Massachusetts Medical School, who shall have experience in biomedical research in the field of cell differentiation, nuclear programming, tissue formation and regeneration, stem cell biology, developmental biology, regenerative medicine or a related field; 1 of whom shall be a physician licensed to practice in the commonwealth who shall be appointed by the governor; 1 of whom shall be designated by the dean of the University of Massachusetts Medical School who shall have experience in medical ethics; 4 persons to be appointed by the president of the senate, 1 of whom shall be a scientist with experience in biomedical research in the field of cell differentiation, nuclear programming, tissue formation and regeneration, stem cell biology, developmental biology, regenerative medicine or a related field; 1 of whom shall be a physician licensed to practice in the commonwealth; 1 of whom shall have experience in medical ethics; and 1 of whom shall be a member of the Massachusetts Bar with a background in legal issues related to biotechnology, stem cell research, in vitro fertilization or health law; 1 person to be appointed by the minority leader of the senate who shall be a member of the public; 4 persons to be appointed by the speaker of the house, 1 of whom shall be a scientist with experience in biomedical research in the field of cell differentiation, nuclear programming, tissue formation and regeneration, stem cell biology, developmental biology, regenerative medicine or a related field; 1 of whom shall be a member of the Massachusetts Bar and have a background in legal issues related to biotechnology, stem cell research, in vitro fertilization or health law; 1 of whom shall be a representative of the Biotechnology Center of Excellence Corporation, and 1 of whom shall be a person with a background in economic development; 1 person to be appointed by the minority leader of the house who shall be a member of the public. In making appointments pursuant to this section the appointing authorities shall give due consideration to the ethnic and racial composition of the council.

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(b) The council shall make recommendations to the general court and the governor regarding proposed changes to this chapter, or any other chapter of the General Laws, or any regulations promulgated pursuant thereto, necessary to promote biotechnology in the commonwealth.

(c) The council shall investigate the implementation of this chapter and the conduct of research, including but not limited to, issues relative to the age, race, ethnicity and insurance status of the donor. The investigation shall also include an analysis of ways to encourage disproportionately impacted populations' participation in, and benefit from, research conducted pursuant to this chapter. Nothing in this section shall authorize the council to obtain individually identifiable patient or donor study participant information.

(d) The council shall submit an annual report of its findings, conclusions, proposals and recommendations as provided in subsections (b) and (c) not later than December 31. The report shall also include an update on the current state of pre-implantation embryo research relating to human embryonic stem cell research in the commonwealth. The report shall be submitted to the governor, the president of the senate, the speaker of the house, the house and senate chairs of the joint committee on economic development and emerging technologies, the clerk of the senate and the clerk of the house.

(e) The council shall meet periodically, but not less than twice each year. All meetings shall be public.

(f) The council shall keep a public record of all meetings, votes and other business.

(g) Members of the council shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation. A chairman of the council shall be elected annually from the membership. The department shall provide administrative support to the council as requested.

(h) In the event of a vacancy on the council, the original appointing authority shall, within 60 days of the occurrence of a vacancy, appoint a new member consistent with subsection (a) to fulfill the remainder of the unexpired term.

Section 10. (a) The department shall enforce this chapter and may adopt regulations, in a manner consistent with this chapter, and with the advice of the biomedical research advisory council, relating to the administration and enforcement of this chapter; but the department shall not propose or implement any regulation or rule which would have the purpose or effect of inhibiting, delaying or otherwise obstructing research or clinical applications proposed or undertaken pursuant to subsection (a) or (b) of section 3. The regulations shall be consistent with the findings and declarations of the general court as stated in section 1.

(b) Before the adoption, amendment or repeal of any regulation pursuant to this chapter, the department shall hold a public hearing in accordance with chapter 30A. Notwithstanding said chapter 30A, at least 90 days before a public hearing the department shall: (i) publish notice of its proposed action in at least 1 major newspaper in the Boston, Worcester, and Springfield metropolitan areas, in at least 1 biotechnology newspaper or trade

journal, in at least 1 medical journal published in the commonwealth, and in such additional newspapers or trade, industry, or professional publications as the department may select; (ii) notify any institution holding a certificate of registration issued pursuant to this chapter; (iii) notify any person, institution or group which has filed a written request pursuant to this section for notice of any regulatory proceeding; such a request shall be renewed at least annually, and delivering or mailing a copy of the notice to the last known address of the person, institution or group required to be notified shall constitute sufficient notice under this section; (iv) file a copy of the notice with the joint committee on economic development and emerging technologies and the joint committee on state administration and regulatory oversight; and (v) file a copy of the notice with the state secretary. The notice required by this section shall refer to the statutory authority pursuant to which the regulatory action is predicated; and shall specify the date, time and place of the public hearing, the manner in which data, views or arguments may be submitted to the agency by any interested person, institution, or group, and the express terms or the substance of the proposed regulations.

(c) No regulation promulgated by the department pursuant to this chapter shall be exempt from the hearing requirement or be considered an emergency regulation pursuant to chapter 30A.

(d) The joint committee on state administration and regulatory oversight of the general court, in this subsection called the committee, shall have authority to review regulations proposed or adopted pursuant to this chapter. The committee shall consult with the joint committee on economic development and emerging technologies in performing this review. The committee may hold public hearings concerning a proposed or existing regulation and may submit to the department comments concerning the merit and appropriateness of the regulations to be promulgated and an opinion whether the regulations are authorized by, and consistent with, this chapter. The department shall respond in writing within 10 days to the committee's written questions relevant to the committee's review of a proposed or existing regulation. The department shall provide to the committee, without charge, copies of all public records in the agency's custody relating to the regulation or action in question within 10 days of a request by the committee. The committee may issue a report with proposed changes to a proposed or existing regulation and shall transmit this report to the department. If the department does not adopt the proposed changes contained in the committee's report, the department shall notify the committee in writing of the reasons why it did not adopt the changes either at the time it adopts a proposed regulation or within 21 days of receiving the committee's report on an existing regulation.

(e) The superior court department of the trial court shall have jurisdiction to consider any claim challenging the validity of a regulation issued pursuant to this section. Any institution holding a certificate of registration to conduct research pursuant to this chapter, and aggrieved by a regulation promulgated by the department, may bring a civil action presenting its claim. In any such civil action, in determining whether a preliminary injunction shall issue, the court shall consider any regulation that would have the effect of prohibiting or discontinuing research authorized pursuant to this chapter to be an irreparable

injury to the institution bringing the claim.

(f) The department shall issue a certificate of registration authorizing an institution to conduct human embryonic stem cell research within 30 days after submission of an application from the applicant institution, if the institution: (i) pays a fee of not more than \$200 to the department; and (ii) provides documentation to the department demonstrating that the institution has an institutional review board or provides a copy of a contract between the institution and either a private or public institutional review board which shall review the institution's experimentation, study and procedures involving human embryonic stem cell research. Any institution which submits an application and meets the requirements for a certificate of registration pursuant to this section shall not have the certificate of registration unreasonably withheld. A certificate may be withheld if the department determines that the applicant institution has violated subsection (m).

(g) No research authorized pursuant to subsection (b) of section 3 shall be conducted at any institution that does not have a valid certificate of registration issued pursuant to this section.

(h) All certificates of registration issued in accordance with this section shall be valid for a term of 3 years from the date of issuance. The department shall notify all holders of certificates of registration under this section at least 60 days before the expiration of the certificate of registration. If an institution that is issued a certificate of registration under this chapter makes timely and sufficient application for a renewal, its certificate of registration shall not expire until its application has been finally determined by the department. Before the assessment of a civil administrative penalty pursuant to this section, the department shall notify the holder of the certificate of registration that it has 90 days after the date of expiration within which to submit an application for renewal during which time the department shall waive any applicable penalties pursuant to this subsection.

(i) An institution holding a certificate of registration pursuant to subsection (f) shall submit an annual report to the department providing a summary of the research approved during each calendar year and a statement representing that the research was reviewed in accordance with this chapter, if applicable.

(j) The department shall certify its receipt of annual reports from institutions holding a certificate of registration pursuant to subsection (f).

(k) The department shall keep an official record of the names of all institutions holding a certificate of registration and of all money received and disbursed by it. A duplicate of this record shall be open for public inspection in the office of the state secretary.

(l) The department shall keep an official record of all persons convicted of violating subsection (a), (b) or (c) of section 8. The department shall annually send notice of the names of those violators to all institutions issued a certificate of registration under subsection (f). No such institution shall knowingly employ a person whom the department has identified as having been convicted of a violation of said subsection (a), (b) or (c) of said section 8.

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(m) The department shall revoke any certificate of registration, shall not renew such certificate and shall deny any future application for a certificate of registration for any institution that knowingly and willfully permits or assists a violation of subsection (a) of section 8, whether or not the violation is committed by an employee of that institution.

(n) (1) The department may discipline an institution conducting research pursuant to this chapter if it is determined, after an opportunity for an adjudicatory proceeding conducted pursuant to chapter 30A, that the institution has:

(i) violated subsection (b) of section 3;

(ii) violated section 4;

(iii) knowingly and willfully permitted or assisted a violation of subsection (b) or (c) of section 8;

(iv) knowingly violated subsection (f) of this section, if applicable;

(v) failed to submit an annual report to the department pursuant to subsection (i);

(vi) employed a person identified in the annual notice by the department pursuant to subsection (l); or

(vii) knowingly implemented a decision by an institutional review board to authorize research prohibited by this chapter.

(2) The department may, after an opportunity for an adjudicatory proceeding conducted pursuant to chapter 30A, upon determination that an institution conducting research pursuant to this chapter has violated this subsection undertake the following actions:

(i) for the violation of clause (iii) of paragraph (1), revoke or refuse to renew such certificate of registration or assess upon the holder a civil administrative penalty not to exceed \$250,000 and may require the holder to submit to additional oversight as a condition or retention, or future consideration of reinstatement of the certificate of registration;

(ii) for a violation of clause (i), (ii), (iv), (vi) or (vii) of paragraph (1), assess upon the holder a civil administrative penalty not to exceed \$100,000; or

(iii) for a first violation of clause (v) of paragraph (1) censure a holder; and for each subsequent violation of said clause (v) of said paragraph (1), suspend such certificate of registration until compliance with subsection (i), and impose a civil administrative penalty, as determined by the department not to exceed \$1,000.

(3) An institution sanctioned under this subsection may be subject to such other sanctions or punishment as may be provided by law. The department shall promulgate such rules and regulations not inconsistent with chapter 30A and this chapter as necessary for the filing of charges and the conduct of proceedings.

SECTION 2. Subsection (a) I of section 12J of chapter 112 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

For the purposes of this section, "fetus" shall include a neonate and an embryo, but shall exclude a pre-implantation embryo or parthenote as defined in section 2 of chapter 111L and obtained in accordance with said chapter 111L.

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SECTION 3. Said section 12J of said chapter 112, as so appearing, is hereby further amended by inserting after the word "neonate", in line 38, the following words:- , but shall exclude a pre-implantation embryo or parthenote as defined in section 2 of chapter 111L and obtained in accordance with said chapter 111L.

SECTION 4. Said section 12J of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 59 to 61, inclusive, the words "District Attorney for the county in which the hospital or other institution for which the board acts, is located" and inserting in place thereof the following words:- attorney general.

SECTION 5. Said section 12J of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 75, 91, 98, 116, 118, 127, 165 and 173, each time they appear, the words "District Attorney" and inserting in place thereof the following words:- attorney general.

SECTION 6. Said section 12J of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 82 and 83, the words "District Attorney for the district where said procedure is performed" and inserting in place thereof the following words:- attorney general.

SECTION 7. Said section 12J of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 111 and 112, the words "District Attorney for the district where the procedure is performed" and inserting in place thereof the following words:- attorney general.

SECTION 8. Section 12K of said chapter 112, as so appearing, is hereby amended by striking out, in line 15, the word "fertilization" and inserting in place thereof the following words:- implantation of the embryo in the uterus.

SECTION 9. Section 7 of chapter 113 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of "Part" and inserting in place thereof the following definition:-

"Part" or "Parts", organs, tissues, skin, eyes, bones, arteries, blood, other fluids and other portions of a human body; but a gamete, as defined in section 2 of chapter 111L, shall be donated in accordance with said chapter 111L.

SECTION 10. Notwithstanding any general or special law to the contrary, the biomedical research advisory council established in section 9 of chapter 111L of the General Laws may, from time to time, make recommendations to the commissioner of public health on proposed regulations for the administration and enforcement of said chapter 111L.

SECTION 11. Notwithstanding any general or special law to the contrary, the biomedical research advisory council established in section 9 of chapter 111L of the General Laws shall investigate the feasibility of permitting companies whose stock is publicly traded to use an alternative method of approval in lieu of having to acquire the approval of an institutional review board before conducting embryonic stem cell research pursuant to said chapter 111L. The investigation shall include a recommendation as to whether the approval of a duly appointed bioethical advisory board is a suitable alternative to the approval of an

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institutional review board. The council shall complete its investigation, and submit its recommendations, if any, to the joint committee on economic development and emerging technologies not later than October 31, 2005.

SECTION 12. Notwithstanding any general or special law to the contrary, the biomedical research advisory council established in section 9 of chapter 111L of the General Laws shall investigate an appropriate and suitable manner of disposing pre-implantation embryos which have been abandoned by the persons contributing the genetic material from which the embryos were created. The investigation shall include an analysis of the feasibility of granting the commissioner of public health, upon a declaration by a court of competent jurisdiction that the embryos have been abandoned, the authority to accept legal custody of the embryos and to provide consent to their use for purposes of biomedical research or medical care or treatment. The council shall complete its investigation, and submit its recommendations, if any, to the joint committee on economic development and emerging technologies not later than November 30, 2005.

SECTION 13. Notwithstanding any general or special law to the contrary, the biomedical research advisory council established in section 9 of chapter 111L of the General Laws shall investigate the optimum method by which a public placental and umbilical cord blood bank should be established at the University of Massachusetts Medical School or other appropriate institution. The investigation shall include an analysis of establishing a public umbilical cord blood bank for the purpose of collecting and storing umbilical cord blood and placental tissue that is donated to research by maternity patients and an analysis establishing a public umbilical cord blood bank for the collection and storage of umbilical cord blood and cells and placental tissue and cells and making the same available to the person depositing the blood or cells and their designees for individual medical research and treatment. The investigation shall also include a recommendation on an appropriate fee structure for participation in the public placental and umbilical cord blood bank. The council shall analyze the need for eligibility requirements to ensure equal access to the bank for all citizens of the commonwealth and the costs associated with the operation and maintenance of the public placental and umbilical cord blood bank, including the need for, and appropriateness of, public funding. Finally, the council shall make recommendations as to the need for regulations or protocols to govern donations to the bank and the release and use of banked cells, tissue or blood. The council shall report its findings, together with any proposed legislation, to the house and senate chairs of the joint committee on economic development and emerging technologies and to the house and senate chairs of the joint committee on health care financing not later than July 31, 2006.

SECTION 14. Notwithstanding any general or special law to the contrary, the members of the biomedical research advisory council established in section 9 of chapter 111L of the General Laws shall be appointed not later than July 31, 2005. If, as of August 1, 2005, the council shall consist of fewer than 15 members, the attorney general shall appoint such members, not later than September 1, 2005 so that the council consists of 15 members as provided in said chapter 111L.

SECTION 15. Notwithstanding any general or special law to the contrary, the biomedical research advisory council established in section 9 of chapter 111L of the General Laws shall investigate the optimum method by which a public institutional review board should be established at the University of Massachusetts Medical School at Worcester. The council shall report its findings, together with any proposed legislation, to the house and senate chairs of the joint committee on economic development and emerging technologies and to the house and senate chairs of the joint committee on healthcare financing not later than July 31, 2006.

SECTION 16. Notwithstanding any general or special law to the contrary, the president of the University of Massachusetts, or his designee, shall appoint a commission to analyze and investigate the feasibility of establishing an Institute for Regenerative Medicine at the University of Massachusetts Medical School. The analysis and investigation shall include the potential cost of establishing such an institute as well as the potential scientific, economic and social benefits such an institute may have upon the commonwealth. The commission shall submit a final report detailing its recommendations, if any, including any proposed legislation, to the house and senate chairs of the joint committee on economic development and emerging technologies and to the house and senate chairs of the joint committee on healthcare financing not later than March 1, 2006.

SECTION 17. The public institutional review board to be established pursuant to section 6 of chapter 111L of the General Laws shall be established not later than 120 days after the effective date of this act.

SECTION 18. Any institution which on the effective date of this act is conducting human embryonic stem cell research in the commonwealth shall have 180 days from the effective date to come into compliance with this act.

This bill was returned by the Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on May 31, 2005, and in concurrence by the House on May 31, 2005, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 28. AN ACT PROVIDING FOR CAPITAL REPAIRS TO THE JIM ROCHE MEMORIAL RINK IN THE WEST ROXBURY SECTION OF THE CITY OF BOSTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately make capital repairs to the Jim Roche Memorial Rink, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Item 2800-0105 in section 2E of chapter 352 of the acts of 2004 is hereby amended by striking out the words "expended for the repairs and improvement of the Walter C. Bryan Memorial Rink" and inserting in place thereof the following words:— provided to the Eileen Patricia Sullivan Roche Foundation for the repair and improvement of the Jim Roche Memorial Rink, formerly the Walter C. Bryan Memorial Rink.

SECTION 2. Notwithstanding any general or special law, ordinance, rule or regulation to the contrary, but subject to the wage requirements of sections 26 to 27H, inclusive, of chapter 149 of the General Laws, the Eileen Patricia Sullivan Roche Foundation, as the donor of \$2,000,000 for the repair and improvement of the Jim Roche Memorial Rink in the West Roxbury section of the city of Boston, subject to the approval of the commissioner of capital asset management and maintenance acting in consultation with the commissioner of the department of conservation and recreation, may complete a capital repair program in accordance with item 2800-0105 of section 2E of chapter 352 of the acts of 2004 with its donated funds. The capital repair program shall include, but shall not be limited to, the repair and reconstruction of buildings, improvements to the grounds, and the repair, refurbishing and purchase and installation of new equipment.

SECTION 3. (a) Notwithstanding section 54 of chapter 7 of the General Laws, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation, may, notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws and using whatever competitive proposal process the commissioner of the division approves as necessary or appropriate, lease and enter into other agreements, for a term not to exceed 3 years, to or with 1 or more offerors who participate in that process, for the Jim Roche Memorial Rink, so as to provide for the continued use, operation, maintenance, repair and improvement of the rink together with the land and appurtenances associated therewith.

There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional 3 years. This renewal or extension shall be at the discretion of the division of capital asset management and maintenance in accordance with the original contract terms and conditions or contract terms and conditions more favorable to the state. Any lease shall require the lessee to carry comprehensive general liability insurance with the commonwealth named as a co-insured, protecting the commonwealth against all personal injury or property damage within the rink or on the land during the term of the lease.

The lease and other agreements shall be on terms acceptable to the commissioner of capital asset management and maintenance after consultation with the commissioner of the department of conservation and recreation, and, notwithstanding any general or special law to the contrary, shall provide for the lessee to manage, operate, improve, repair and maintain the property. The lease and other arrangements requiring capital improvements to be made

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to any buildings or surface areas shall include a description of the required capital improvements and, at a minimum, performance specifications. The lease and other agreements shall provide that any benefits to the commonwealth and the costs of improvements and repairs made to the property provided by the tenants or the recipients of the property shall be taken into account as part of the consideration for such lease or other agreements. The division, in consultation with the department, shall structure the lease and other agreements to minimize disturbance of the current rights of any tenants who may currently use any part of the rink or adjoining facilities, whether under a written lease or other arrangement. All consideration received from the lease or other agreements shall be payable to the department of conservation and recreation for deposit into the Roche Community Rink Fund in accordance with section 2NNN of chapter 29 of the General Laws. The lessee of the property shall bear all costs approved as necessary or appropriate by the commissioner of capital asset management and maintenance for the transaction including, without limitation, all costs for legal work, survey, title and the preparation of plans and specifications.

(b) The division of capital asset management and maintenance, in consultation with and on behalf of the department of conservation and recreation, shall solicit proposals through a request for proposals which shall include key contractual terms and conditions to be incorporated into the contract, including, but not limited to: (1) a comprehensive list of all rinks operated by the responsive bidder or offeror in the last 4 years; (2) other facilities management or experience of the responsive bidder or offeror; (3) other skating or hockey management experience of the responsive bidder or offeror; (4) a residential discount program; (5) reservation policies; (6) proposed reasonable rates that will ensure continued public access; (7) required financial audits; (8) policies to encourage use of the rink by persons of all races and nationalities; (9) safety and security plans; (10) seasonal opening and closing dates; (11) hours of operation; and (12) how the operator will satisfy the following ice time allocation guidelines. Ice time at rinks under the jurisdiction of the division of urban parks and recreation shall be allocated to user groups in the following priority order: general public skating; nonprofit youth groups; school hockey; youth groups other than nonprofit youth groups; and adult organizations or informal groups. Ice time may be allocated at the discretion of the operator, provided that general public skating shall be booked at a minimum of 12 hours per week, to be determined by the department, with a range of times and days which reasonably allow for public skaters of all ages to participate in some public skating sessions. Every effort shall be made to balance the ice allocation needs of long-established youth organizations and newly formed youth organizations in a manner that provides equal opportunity and equal access for youths of each gender.

When evaluating proposals that are otherwise comparable, the division, in consultation with the department, shall prefer any proposal to lease the rink that is submitted by a city or town where the rink is located, or by a nonprofit youth hockey organization located in the city or town where the rink is located, provided that the proposal complies with the ice time allocation guidelines outlined above.

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(c) It shall be a mandatory term of any request for proposals issued by the commissioner and of any contract entered into by the commonwealth with any party regarding the subject matter of this act that any party that has entered into a contract pursuant to this act shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the rink and to preserve the safety and environmental conditions of the rink, that all employees currently working on the operation and maintenance of the rink be offered employment by any party entering into a contract pursuant to this act. Upon the execution of any agreements authorized by this act, the department of conservation and recreation shall reassign or relocate those employees who do not accept employment with the lessor, to comparable positions within the department subject to applicable collective bargaining agreements.

(d) Any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not apply to any selected offeror which is awarded a contract pursuant to this act, except as provided in this act.

Approved June 6, 2005.

Chapter 29. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ALEXANDER G. GRAY, JR., 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 Alexander G. Gray, Jr., an employee of the trial court. Any employee of the trial court may voluntarily contribute 1 or more of his sick, personal or vacation days to the sick leave bank for use by Alexander G. Gray, Jr. Whenever Alexander G. Gray, Jr. 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 June 7, 2005.

Chapter 30. AN ACT RELATIVE TO A STABILIZATION FUND IN THE TOWN OF LEICESTER.

Be it enacted, etc., as follows:

SECTION 1. In the town of Leicester, a vote to withdraw funds from the Stabilization Account, a stabilization fund established under section 5B of chapter 40 of the General Laws, shall require a 9/10 vote of the annual town meeting or a special town meeting.

SECTION 2. From all other stabilization funds established in the town of Leicester, a $\frac{2}{3}$ vote of the annual town meeting or a special town meeting shall be required to withdraw funds, as provided for in section 5B of chapter 40 of the General Laws.

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

Approved June 9, 2005.

Chapter 31. AN ACT RELATIVE TO CERTAIN ELECTIONS IN THE CITY OF MEDFORD IN THE CURRENT YEAR.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the charter of the city of Medford or any other general or special law to the contrary, there shall be no preliminary election in the city of Medford as otherwise required on September 13, 2005 for the office of school committee for a 2-year term; for the office of city council for a 2-year term and for the office of mayor for a 2-year term, and the candidates whose nomination papers have been duly certified shall be deemed to have been nominated.

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

Approved June 10, 2005.

Chapter 32. AN ACT AUTHORIZING THE TOWN OF ABINGTON TO ESTABLISH A CAPITAL IMPROVEMENT TRUST FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Abington may establish and maintain a special account known as the Capital Improvement Trust Fund and may raise and appropriate money therefor.

SECTION 2. The town of Abington may appropriate to the fund by majority vote at an annual or special town meeting in any year an amount not to exceed 10 per cent of the amount raised in the preceding year by taxation of real estate and tangible personal property.

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Appropriations under this section shall not increase the aggregate amount of the fund to an amount exceeding 10 per cent of the equalized valuation of the town as defined in section 1 of chapter 44 of the General Laws.

SECTION 3. In addition to any amounts appropriated under section 2 of this act, the town of Abington may, by a by-law enacted by a $\frac{2}{3}$ majority vote at an annual or special town meeting, direct that an amount not exceeding 10 per cent of the town's free cash as certified by the department of revenue in any given fiscal year and an amount not exceeding 10 per cent of any new growth in tax revenue as certified by the bureau of local assessment in any given fiscal year, be deposited in the Capital Improvement Trust Fund.

SECTION 4. The town of Abington may appropriate by majority vote at any annual or special town meeting any principal and interest within the fund for any capital purchase or principal debt payment for any capital purchase. Capital purchase shall mean the purchase of any item with a cost of at least \$10,000 and a life expectancy of 3 or more years.

SECTION 5. If the town department or committee responsible for oversight of a capital purchase determines that the purchase is complete, any remaining balance appropriated for that purchase shall remain in the Capital Improvement Trust Fund.

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

Approved June 10, 2005.

Chapter 33. AN ACT AUTHORIZING THE SCHOOL DEPARTMENT OF THE CITY OF CHELSEA TO BE OPEN ON JUNE 17, 2005.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 12 and 13 of chapter 136 and chapter 71 of the General Laws and any other general or special law to the contrary, the school department of the city of Chelsea may, at the discretion of the school committee of the city, be open for business for all purposes including the instruction of students in classrooms on June 17, 2005.

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

Approved June 14, 2005.

Chapter 34. ACT ESTABLISHING A SICK LEAVE BANK FOR MARY M. PUTNEY, 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 of the com-

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monwealth, 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 Mary M. Putney, an employee of the Plymouth district court. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the leave bank for use by Mary M. Putney. Whenever Mary M. Putney 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 June 14, 2005.

Chapter 35. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2005 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 beginning July 1, 2004, and to make certain changes in law, 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 2005, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in these 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 the disbursement of public funds for the fiscal year ending June 30, 2005. The sums in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Group Insurance Commission

1108-5200	\$19,400,000
1108-5400	\$2,000,000

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Office of the Secretary for Administration and Finance

1599-1971 \$38,606,479

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

Office of the Secretary of Environmental Affairs

2030-1000 \$553,500

Department of Conservation and Recreation

2820-0100 \$1,100,000

2820-2000 \$2,525,153

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Public Health

4512-0200 \$9,173,691

4580-1000 \$495,000

EXECUTIVE OFFICE OF PUBLIC SAFETY

Military Division

8700-0001 \$453,084

SHERIFFS

Worcester Sheriff's Department

8910-0105 \$1,200,000

Franklin Sheriff's Department

8910-0108 \$342,148

Essex Sheriff's Department

8910-0619 \$702,000

Massachusetts Sheriffs' Association

8910-7100 \$41,600

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 in this section are 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, 2005. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

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EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary for Administration and Finance

1599-7093 For a reserve for the costs of rent and relocation for the Barnstable county sheriff's department \$1,475,000

EXECUTIVE OFFICE OF PUBLIC SAFETY

8910-0005 For the Plymouth county sheriff's department to be allocated at the discretion of the county government finance review board \$1,500,000

SECTION 2C.(I) For the purpose of making available in fiscal year 2006 balances of appropriations which otherwise would revert on June 30, 2005, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of chapter 149 of the acts of 2004 ; but for items which do not appear in said section 2 of said chapter 149, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding items in section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the funds designated for the corresponding item in said section 2 of said chapter 149; but for items which do not appear in said section 2 of said chapter 149, the amounts in this section are re-appropriated from the funds designated for the corresponding items in said section 2 or 2A of this act or in prior appropriation acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes. All amounts appropriated in said section 2 or 2A of this act shall be available for expenditure in fiscal year 2006.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Group Insurance Commission

1108-5200 \$19,400,000
1108-5400 \$2,000,000

Office of the Secretary of Administration and Finance

1599-1971 \$38,606,479
1599-7093 \$1,475,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

Office of the Secretary of Environmental Affairs

2030-1000 \$553,500

Chap. 35

Department of Conservation and Recreation

2820-0100	\$1,100,000
2820-2000	\$2,525,153

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Public Health

4512-0200	\$9,173,691
4580-1000	\$495,000

EXECUTIVE OFFICE OF PUBLIC SAFETY

Office of the Secretary

8000-0010	\$3,468,789
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Military Division

8700-0001	\$453,084
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SHERIFFS

8910-0005 For the Plymouth county sheriff's department to be allocated at the discretion of the county government finance review board	\$1,500,000
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Worcester Sheriff's Department

8910-0105	\$1,200,000
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Franklin Sheriff's Department

8910-0108	\$342,148
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Essex Sheriff's Department

8910-0619	\$702,000
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(II) For the purpose of making available in fiscal year 2006 balances of retained revenue and intragovernmental chargeback authorizations which otherwise would revert on June 30, 2005, the unexpended balances of the authorizations listed below, not to exceed the amount specified below for each item, are hereby re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2B of chapter 149 of the acts of 2004; but for items which do not appear in said section 2 or 2B of said chapter 149, the amounts in this section are re-authorized for the purposes of and subject to the conditions stated for the corresponding items in said section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-authorized from the funds designated for

the corresponding items in said section 2 or 2B of said chapter 149; provided, however, that for items which do not appear in said section 2 or 2B of said chapter 149, the amounts in this section are re-authorized from the funds designated for the corresponding items in said section 2 or 2A of this act or in prior appropriation acts. The sums re-authorized in this section shall be in addition to any amounts available for these purposes.

SHERIFFS

Massachusetts Sheriffs' Association

8910-7100 \$41,600

SECTION 3. Section 12A of chapter 29 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, in order to comply with the Social Security Act, the comptroller may present in his certificate to the governor's council, and the state treasurer, with the consent of the council, may transfer to the United States Treasury before July funds necessary to make July 1 Supplemental Security Income payments to commonwealth benefit recipients.

SECTION 4. Item 8910-7100 of section 2 of chapter 149 of the acts of 2004 is hereby amended by striking out the words "\$211,000 from revenues" and inserting in place thereof the following words:- \$252,600 from revenues.

SECTION 5. Said chapter 149 is hereby further amended by striking out section 259 and inserting in place thereof the following section:-

Section 259. Notwithstanding any general or special law to the contrary, the executive office of health and human services may expend, subject to federal approval, an amount not to exceed \$416,740,000 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 executive office for such payments. No funds shall be expended unless the acute care hospital has executed the executive office of health and human services' 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 the 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 secretary of administration and finance and the house and senate committees on ways and means.

SECTION 6. Chapter 172 of the acts of 2004 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

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Section 1. Notwithstanding any general or special law to the contrary, in fiscal year 2005, the executive office of public safety shall administer and distribute the non earmarked portion of community policing grants based on a formula that uses the following weighted categories: population - 45 per cent; historic levels of community policing grants - 40 per cent; violent crime rates - 6 per cent; nonviolent crime rates - 6 per cent; hate crime statistics - 1.5 per cent; and law enforcement assault statistics - 1.5 per cent. These grant monies shall be expended by cities and towns not later than December 31, 2005 unless a petition for an extension is filed with the executive office of public safety by the city or town before November 1, 2005 and accepted by the secretary of public safety before December 1, 2005. This formula shall not apply in fiscal year 2006.

Approved June 16, 2005.

Chapter 36. AN ACT RELATIVE TO THE ISSUANCE OF CERTAIN BONDS BY THE TOWN OF DRACUT.

Be it enacted, etc., as follows:

SECTION 1. The town of Dracut may issue bonds or notes from time to time in an aggregate amount not to exceed \$2,175,000 for the purpose of funding the town's liability attributable to the additional benefits payable under the early retirement incentive program authorized by chapter 116 of the acts of 2002 and the vote of the town passed under Article 22 of the warrant for the 2002 annual town meeting, and to provide for issuance costs and other necessary or incidental expenses. 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 of not more than 20 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.

SECTION 2. The maturities of bonds or notes issued under this act 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 board of selectmen, or in accordance with a schedule providing for a more rapid amortization of principal.

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 town of Dracut to the Middlesex retirement system, shall be allocated solely to reduce the liability to which the bonds or notes relate, shall be invested as permitted under chapter 32 of the General Laws, and shall otherwise be held and expended by the Middlesex retirement system, and no further payments to that system by the town shall be required with respect to the liability to which the bonds and notes relate.

SECTION 4. Before the issue of any bonds or notes under this act, the town of Dracut 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

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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 and notes. No bonds or notes shall be issued under this act until the secretary of administration and finance has approved the plan and specifically approved the maturity schedule of the bonds or notes if required by section 2.

SECTION 5. 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 town for bonds or notes issued under this act equal to the total of the annual debt service multiplied by the ratio of the portion of the liability funded by the proceeds of these bonds or notes related to nonteacher employees of the town public school system to the total such liability shall be included as net school spending of the town for the purposes of said chapter 70 or any other law.

§ **SECTION 6.** The vote of the town of Dracut passed under Article 3 of the warrant for the town of Dracut town meeting, on November 1, 2004, authorizing a borrowing of \$2,175,000 for the purposes described in section 1, is hereby ratified and confirmed in all respects.

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

Approved June 16, 2005.

Chapter 37. AN ACT AUTHORIZING CERTAIN EASEMENTS IN THE TOWN OF HOLBROOK FOR CONSTRUCTION AND MAINTENANCE OF A WATER MAIN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Holbrook and the county of Norfolk may use a portion of land jointly owned by the town and the county, currently held for conservation purposes, as temporary and permanent easements for the construction, installation, maintenance and repair of a water main for the town. The land and proposed easements are shown on a plan entitled "Easement Plan of Land Division Street to Centre Street, Holbrook, MA (Norfolk County) Prepared for: Camp, Dresser & McKee, Inc. Dated March 9, 2004 Scale 1"=40'."

The construction, installation, maintenance and repair of the water main, as authorized by this act, shall at all times be conducted pursuant to the terms and conditions of any permits or approvals required by law, including any obligation to restore the property.

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

Approved June 20, 2005.

Chapter 38. AN ACT AUTHORIZING CERTAIN EXPENDITURES BY THE TOWN OF SEEKONK.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the town of Seekonk may expend monies in each of the first 3 months of fiscal year 2006 in the amount of one-twelfth of the fiscal year 2005 budget, notwithstanding its failure to adopt a fiscal year 2006 budget.
Emergency Letter: June 23, 2005 @ 4:08 P.M. Approved June 23, 2005.

Chapter 39. AN ACT AUTHORIZING THE CONVEYANCE OF A CERTAIN PARCEL OF LAND IN THE TOWN OF SHREWSBURY.

Be it enacted, etc., as follows:

SECTION 1. The town of Shrewsbury, acting by and through its board of selectmen, may sell and convey a certain parcel of land located at 52 Holden street in the town at public auction. A portion of the parcel was conveyed to the town by a deed dated February 22, 1999 and recorded in the Worcester county registry of deeds, in Book 21065, Page 357.

SECTION 2. The consideration paid to the town of Shrewsbury for the conveyance of the property described in section 1 shall be the highest bid. The town may require that the grantee shall be responsible for all costs associated with any appraisals, survey, auction fee or commission or other expense incurred by the town as determined by the board of selectmen.

SECTION 3. Subsections (a), (b) and (g) of section 16 of chapter 30B of the General Laws shall apply to the sale and conveyance authorized by this act.

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

Approved June 23, 2005.

Chapter 40. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 122 AS A SCENIC ROAD.

Be it enacted, etc., as follows:

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Notwithstanding section 15C of chapter 40 of the General Laws, that portion of state highway route 122 in the towns of Paxton, Rutland, Oakham, Barre, Petersham, New Salem and Orange is hereby designated a scenic road.

The purpose of the route 122 scenic road designation shall be to recognize, interpret, preserve, and promote the unique scenic, cultural, archeological, natural and recreational resources of route 122 in these towns through the development of a corridor management plan and public participation.

Approved June 23, 2005.

Chapter 41. AN ACT AUTHORIZING WILLIAM F. FELTON TO RECEIVE WORKERS' COMPENSATION BENEFITS WITHOUT OFFSET AGAINST HIS RETIREMENT ALLOWANCE.

Be it enacted, etc., as follows:

Notwithstanding paragraph (2) of section 14 of chapter 32 of the General Laws or any other general or special law to the contrary, the workers' compensation benefits awarded to William F. Felton, former highway superintendent of the town of Townsend, by order of the department of industrial accidents, shall not be offset against or payable in lieu of the ordinary disability retirement allowance awarded to William F. Felton by the Middlesex retirement board.

The foregoing was laid before the Governor on the Sixteenth day of June, 2005 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 42. AN ACT MAKING CERTAIN APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 2006, BEFORE FINAL ACTION ON THE GENERAL APPROPRIATION BILL FOR THAT FISCAL YEAR.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the amount of \$1,200,000,000 is hereby appropriated for the fiscal year ending June 30, 2006, to meet necessary expenditures before the enactment into law of the general appropriation act for that fiscal year, for the maintenance and operations of the several departments, boards, commissions, and institutions, including federal grant and Intragovernmental Service Fund expenditures, for other necessary services, and for meeting certain requirements of law. This appropriation shall cease to be operative as of the effective date of the general appropriation

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act, and all actions taken under this section shall apply against the general appropriation act. All expenditures made under this appropriation shall be consistent with appropriations made in the general appropriation act.

SECTION 2. Notwithstanding any general or special law to the contrary, the unexpended balances of all capital accounts which otherwise would revert on June 30, 2005, but which are necessary to fund obligations during fiscal year 2006, are hereby re-authorized. These re-authorizations shall terminate upon enactment of capital account extension legislation.

SECTION 3. 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 issued by the secretary.

SECTION 4. Sections 1 and 3 shall take effect on July 1, 2005. Section 2 shall take effect on June 30, 2005.

Approved June 28, 2005.

Chapter 43. AN ACT PARTIALLY RELEASING A NON-DEVELOPMENT COVENANT RESTRICTION ON CERTAIN LAND IN THE TOWN OF GRANBY AND AUTHORIZING CERTAIN AGREEMENTS FOR THE DALY MEMORIAL RINK IN BRIGHTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to partially release a non-development covenant restriction on certain land in the town of Granby and to authorize certain agreements for the Daly Memorial Rink, 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. Pursuant to section 40E of chapter 7 and section 22 of chapter 20 of the General Laws, but notwithstanding any other general or special law to the contrary, the commissioner of the department of agricultural resources may execute a certificate releasing a portion of that land located on the southerly side of West State Street, Granby, Hampshire County, consisting of approximately 30 acres total and being parcels G-6 and G-6.4 on Map No. 3 of the Assessor's Maps of the town of Granby, and being covered by a certain non-development covenant restriction with a term of 10 years held by the commonwealth under section 22 of chapter 20 of the General Laws, and approved by the commissioner of food and agriculture, dated February 14, 2000, recorded at Book 5896, Page 0314, at the Hampshire county registry of deeds. The land subject to the restriction is owned by Stephen

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T. Sapowsky, Sr., also known as Stephen T. Sapowsky, and Tammy Sapowsky by deed dated June 12, 1995, recorded in the Hampshire county registry of deeds in Book 4680, Page 337.

The portion of land to be released from the restriction is more particularly described as follows: The land in Granby, Hampshire county, Massachusetts, more particularly bounded and described as follows:

PARCEL 3-G-6 (Town of Granby Assessors Map - 2004)

Beginning at an iron pin located on the southerly side of West State Street (a/k/a Route 202) thirty seven and 2/100 (37.2) feet easterly of Massachusetts Highway Bound as shown on a plan of land entitled "Survey of Subdivision of Land for Esther Hatch (Owner)" dated August 30, 1968 and recorded with Hampshire County Registry of Deeds in Plan Book 72, Page 127, thence running

S. 0 degrees 10' W. two hundred (200) feet along the westerly side of Lot 1 as shown on said plan to a steel stake, thence running

S. 89 degrees 50' E. three hundred ninety five and 66/100 (395.66) feet along the southerly side of Lots 1, 2 and 3 as shown on said plan to an iron pin, thence running

S. 4 degrees 21' 30" E. fifty and 12/100 (50.12) feet along the westerly side of land now or formerly of Lawrence and Jean R. Rodrigues as shown on said plan to an iron pin, thence continuing

S. 7 degrees 01' 30" E. six hundred forty six and 50/100 (646.50) feet along the westerly side of land now or formerly of Oscar E. Marcotte and Alvina Marcotte to an iron pin, thence running

S. 22 degrees 18' 38" W. six hundred thirty four and 95/100 (634.95) feet along the westerly side of land now or formerly of Paul J. Mazzariello and Carole I. Mazzariello to an iron pin, thence running

N. 83 degrees 38' W. seven hundred twenty five (725) feet, more or less, along the northerly side of land now or formerly of Massachusetts Electric Company, to a stake, thence running

Westerly seventy five (75) feet, more or less, along the northerly side of land now or formerly of Bertha M. Worthington, to a point, thence running

S. 28 degrees 49' W. thirty five (35) feet, more or less, along the land now or formerly of said Worthington to an iron pin, thence running

N. 83 degrees 38' W. three hundred seventy nine and 40/100 (379.40) feet, along the northerly side of land now or formerly of said Massachusetts Electric Company to an iron pin, thence running

Northwesterly two hundred fifty (250) feet, more or less, along the northerly side of land now or formerly of said Worthington to the center line of Muddy Brook, thence running

Southwesterly along the center line of said Muddy Brook two hundred (200) feet, more or less, along the northwesterly side of land now or formerly of Henry T. Randall, Jr. to a point, thence continuing running

Southwesterly four hundred fifty (450) feet, more or less, along the northwesterly side of land now or formerly of said Henry T. Randall, Jr. to a point, thence running

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N. 27 degrees 13' 20" W. two hundred eighty five and 31/100 (285.61) feet along the easterly side of land now or formerly of said Henry T. Randall, Jr. to a point, thence running

N. 62 degrees 46' 40" W. four hundred (400) feet along the land of said Massachusetts Electric Company to an iron pin, thence running

N. 62 degrees 46' 40" E. eighty five and 79/100 (85.79) feet, along the northeasterly side of land now or formerly of said Massachusetts Electric Company to an iron pin, thence running

N. 50 degrees 23' 06" E. four hundred ninety seven and 92/100 (497.92) feet to an iron pin, thence running

N. 36 degrees 23' 49" E. two hundred ninety nine and 65/100 (299.85) feet to an iron pin, thence running

N. 62 degrees 59' 00" E. two hundred ten and 0/100 (210.0) feet, more or less, to the center line of the thread of Tributary "K" of Lower Stony Brook, thence running

Northerly two hundred twenty and 0/100 (220.0), more or less, along the thread of Tributary "K" of Lower Stony Brook, thence running

N. 27 degrees 01' 00" W. fifteen (15) feet to a point, thence running

N. 27 degrees 01' 00" W. one hundred and 00/100 (100.00) feet to West State Street (a/k/a Route 202) to a steel bar in concrete, thence running

N. 62 degrees 58' 49" E. eighty (80) feet, more or less, along the southerly side of West State Street, thence running

S 59 degrees 52' 40" E. four hundred seventy three and 10/100 (473.10) feet to a steel state set, thence running

N 28 degrees 46' 20" E. two hundred forty two and 39/100 (242.39) feet to a steel state set, thence running

N 3 degrees 26' 20" W. two hundred forty nine and 63/100 (249.63) to a steel state set, thence running

Easterly along the southerly side of said West State Street (Route 202), approximately sixty three (63) feet, more or less, to a Massachusetts Highway bound, thence running,

N 87 degrees 10' 18" E. thirty seven and 2/100 (37.2) feet to an iron pin at the point of beginning. Containing approximately 22.47 acres.

PARCEL 3-G-6.4 (Town of Granby Assessors Map - 2004)

Beginning at a point

S. 27 degrees 13' 20" E. one hundred sixty five (165) feet from an iron pin set in the southerly side of West State Street (a/k/a Route 202) as shown on plan of land entitled "Plan of Property in Granby, Massachusetts Prepared for Paul J. Phillips, Jr." dated March, 1974 and recorded with Hampshire County Registry of Deeds in Plan Book 91, Page 24, thence running

S. 27 degrees 13' 20" E. six hundred forty one and 18/100 (641.18) feet, along property now or formerly of Henry T. Randall, Jr., to an iron pin, thence running

S. 36 degrees W. six hundred ninety one (691) feet, more or less, on land now or formerly of Austin Smith to an iron pin, thence running

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N. 73 degrees 08' W. two hundred thirty five (235) feet, more or less, to the center of a twelve inch elm tree, thence running

N. 70 degrees 22' W. eighty one (81) feet, more or less, to an iron pin, thence running

N. 78 degrees 28' 01" W. along land now or formerly of Worthington, thirty-one and thirty-one one-hundredths (31.31) feet to the center of a thirty-six inch elm tree; thence running

N. 33 degrees 26' 14" E. along said land of Worthington and land now or formerly of one Hatch, five hundred sixteen and thirty one-hundredths (516.30) feet to an iron pin at the southwesterly corner of said land now or formerly of one Dudley, thence running

Northeasterly along land now or formerly of William Ferry, one hundred sixty five (165) feet to a point; thence running

Northwesterly along the westerly line of land now or formerly Austin and Mary Smith, three hundred eight and 28/100 (308.28) feet, more or less, to a point, thence running

N. 43 degrees 16' 41" E. three hundred seventy two and 21/100 (372.21) feet to the point at the place of beginning.

The parcel consists of approximately 7.6 acres.

SECTION 2. In consideration of, and in exchange for, the land described in section 1 being released from the described non-development covenant restriction, the owners of the land proposed for release, Stephen T. Sapowsky, Sr. and Tammy Sapowsky, 436 State Street, Granby, Massachusetts 01033, shall execute, directly upon written request of the department, a new non-development covenant restriction for a term of 10 years that shall cover certain land of these owners located on the southerly side of East State street, Granby, Massachusetts, in addition to land already designated by these owners for a new covenant restriction to be recorded at the Hampshire county registry of deeds.

The additional land consists of a parcel of approximately 25 acres and is shown as Parcel A on Map 8 (revised) of the Granby Assessors Maps, 2004. The 25 acres shall be combined in a new covenant restriction with an adjacent parcel of land of these owners of approximately 39 acres, namely Parcel B on Map 8, already designated by owners to be placed under a new covenant restriction under the department's Farm Viability Enhancement Program. The 39 acres of land so designated and the additional land of 25 acres to be placed under a new covenant restriction, was conveyed to owners by deed dated May 3, 2000, recorded at Hampshire county registry of deeds, Book 5931, Page 188. If these owners fail to execute a new covenant restriction covering the described land, upon written request of the department, the described non-development covenant restriction, dated February 14, 2000, shall be reimposed on the released parcel of land, unless the land has been conveyed or the commonwealth has released or discharged the covenant restriction in its entirety. The additional parcel of 25 acres is more particularly described as follows:

That certain tract or parcel of land (Parcel A) situated in Granby, Hampshire County, Massachusetts, located on the Southerly side of East State Street (a/k/a U.S. Route 202) and is more particularly described as follows:

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Beginning at an iron pin located at the northeasterly corner of land now or formerly of G. Nicholas Wohlers as shown on a plan entitled "Plan of Land in Granby, MA Surveyed for "Stephen T. Sapowsky and Tammy G. Sapowsky", dated May 26, 2000, Revised August 27, 2001 and recorded in the Hampshire County Registry of Deeds in Plan Book 189, Page 87, thence running

Easterly on the Southerly side of East State Street two hundred sixty six (266) feet, more or less, to a point, thence turning and running

Southerly one thousand three hundred eighty eight (1,388) feet, more or less, along other land of Stephen T. Sapowsky and Tammy G. Sapowsky, thence turning and running

Westerly seven hundred sixty nine (769) feet, more or less, to a point, thence turning and running

Northerly four hundred thirty five and 20/100 (435.20) feet to a point, thence running

Northerly two hundred one and 84/100 (201.84) feet to a point, thence turning and running

Westerly two hundred fifty (250) feet, more or less, to a point, thence turning and running

Northerly one hundred fifty one (151) feet, more or less, to a point, thence turning and running

Easterly one hundred seventy four and 34/100 (174.34) feet to a point, thence turning and running

Northerly two hundred eighty six and 77/100 (286.77) feet to a point, thence turning and running

Easterly one hundred fifty (150) feet to a point, thence running

Easterly one hundred forty nine and 89/100 (149.89) feet to a point, thence turning and running

Southerly forty six and 01/100 (46.01) feet to a point, thence turning and running

Easterly two hundred ninety nine and 84/100 (299.84) feet to a point, thence turning and running

Northerly three hundred twenty eight and 34/100 (328.34) feet to the point of beginning.

Containing approximately 25 acres.

Being a portion of the premises conveyed to Stephen T. Sapowsky (a/k/a Stephen T. Sapowsky, Sr.) and Tammy Sapowsky (a/k/a Tammy G. Sapowsky) by deed dated May 3, 2000 and recorded at Hampshire County Registry of Deeds in Book 5931, Page 188.

SECTION 3. Except as partially released by the recording of the certificate of partial release described in section 1, as authorized by this act, the referenced non-development covenant restriction shall remain in full force and effect.

SECTION 4. The last sentence of the first paragraph of subsection (a) of section 279 of chapter 149 of the acts of 2004 is hereby amended by striking out the words "and Veterans Memorial Rink, Waltham" and inserting in place thereof the following words:- Veterans Memorial Rink, Waltham; and Daly Memorial Rink, Brighton district of the city of Boston.

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SECTION 5. Section 121 of chapter 352 of the acts of 2004 is hereby repealed.
Approved June 28, 2005.

Chapter 44. 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:

To provide for the continued availability of certain bond-funded spending authorizations which otherwise would expire on June 30, 2005, the balances of the following appropriation items and any allocations thereof are hereby extended through June 30, 2006, for the purposes of and subject to the conditions stated for these items in the original authorizations and any amendments to such authorizations.

Appropriation			
0330-0951	1102-0890	1102-7930	1102-8944
0330-2204	1102-0961	1102-7943	1102-8945
0330-2206	1102-0964	1102-7944	1102-8947
0330-2208	1102-1960	1102-7947	1102-8949
0330-2209	1102-1991	1102-7948	1102-8968
0330-8890	1102-1992	1102-7949	1102-8969
0330-8891	1102-2204	1102-7960	1102-8981
0330-8968	1102-2992	1102-7967	1102-9897
0332-5962	1102-4940	1102-7977	1102-9960
0332-8811	1102-4994	1102-7979	1102-9980
0431-8833	1102-5996	1102-8245	1102-9981
0526-0101	1102-6896	1102-8791	1599-1999
0526-0111	1102-7886	1102-8819	1599-3914
0526-8998	1102-7887	1102-8869	1599-4994
1100-1993	1102-7888	1102-8872	1599-8000
1100-7981	1102-7890	1102-8880	2000-1962
1100-7982	1102-7891	1102-8883	2000-1997
1100-7985	1102-7893	1102-8888	2000-6966
1100-8880	1102-7894	1102-8890	2000-6967
1100-9101	1102-7896	1102-8894	2000-6969
1100-9520	1102-7897	1102-8940	2000-7968

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2000-7992	2820-8881	3722-7870	6001-9510
2000-7993	2820-8882	3722-8865	6001-9606
2000-9963	2820-8883	3722-8871	6001-9610
2200-7991	2820-8936	3722-8872	6001-9655
2200-8969	2820-8951	3722-8873	6001-9905
2240-8820	2820-8960	3722-8875	6001-9945
2240-9101	2820-8961	3722-8891	6001-9957
2240-9105	2840-7875	3722-8892	6005-2002
2240-9106	2840-7991	3722-8896	6005-2004
2240-9107	2840-7992	3722-8898	6005-2006
2250-8820	2840-7993	4000-8000	6005-2021
2250-8822	2840-7994	4000-8100	6005-2022
2250-8881	2840-8885	4000-8200	6005-2031
2250-9959	2840-8886	4010-8831	6005-2032
2260-9882	2840-8889	4180-0013	6006-9500
2260-9965	2840-8950	4180-7890	6006-9680
2300-7967	2840-8952	4180-7891	6006-9980
2300-7991	2840-8956	4200-8968	6033-8828
2300-7992	2840-8963	4238-8871	6033-8868
2300-8961	2840-8965	4536-7890	6033-9113
2300-8970	2840-9101	4537-7891	6033-9128
2320-8960	2840-9104	5011-8841	6033-9500
2320-8978	2840-9800	5011-8842	6033-9515
2530-7991	2840-9990	5095-8870	6033-9516
2800-0950	2843-7967	5095-8872	6033-9524
2800-0951	2850-6966	5500-8300	6033-9525
2800-0952	2850-6967	5500-8400	6033-9526
2800-1122	2850-9951	5500-8500	6033-9530
2800-1961	2850-9969	5500-8893	6033-9555
2800-7991	2890-0010	5500-9000	6033-9560
2800-7992	2890-0012	5500-9100	6033-9581
2800-7993	2890-0013	5500-9220	6033-9592
2800-7994	2890-0014	5500-9400	6033-9603
2810-7872	2890-0015	5800-8100	6033-9604
2810-8802	2890-0016	5800-8120	6033-9615
2820-1420	2890-0017	5800-8300	6033-9616
2820-6996	2890-0019	5800-8810	6033-9617
2820-7882	2895-8968	5800-9000	6033-9618
2820-7961	2895-8998	6000-7967	6033-9620
2820-8861	2896-8967	6001-8800	6033-9629

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6033-9630	6033-9936	7066-0013	7503-7960
6033-9640	6033-9937	7109-0961	7504-7960
6033-9641	6033-9940	7109-0962	7504-7961
6033-9642	6033-9941	7109-7893	7505-7960
6033-9643	6033-9945	7110-0960	7506-7961
6033-9644	6033-9960	7112-0960	7506-7962
6033-9645	6033-9964	7112-0961	7507-7960
6033-9646	6033-9965	7113-0960	7508-0960
6033-9660	6033-9969	7114-0960	7509-7960
6033-9663	6034-9605	7114-0961	7510-7960
6033-9669	6034-9610	7115-0960	7510-7961
6033-9702	6034-9701	7115-0961	7511-7960
6033-9703	6035-9513	7116-0960	7512-7960
6033-9709	6035-9515	7117-0960	7512-7961
6033-9716	6035-9516	7118-0960	7514-7960
6033-9717	6035-9517	7118-0961	7514-7961
6033-9718	6035-9559	7118-7962	7516-7960
6033-9719	6035-9716	7220-0960	8000-0018
6033-9720	6035-9717	7220-0961	8000-0019
6033-9769	6036-9616	7220-7893	8000-7950
6033-9798	6036-9617	7220-7894	8100-9961
6033-9799	6036-9669	7310-0960	8195-8968
6033-9903	6036-9698	7410-7960	8199-7966
6033-9915	6037-0018	7411-7960	8199-7967
6033-9916	6037-0019	7452-7960	8200-8842
6033-9917	6037-9916	7452-7961	8900-1981
6033-9918	6037-9917	7452-7963	8900-7967
6033-9920	7004-6666	7452-7964	8995-8968
6033-9929	7004-8984	7452-7965	9300-3905
6033-9934	7004-8985	7502-0960	9300-3909
6033-9935	7004-8987	7503-7892	

Approved June 28, 2005.

Chapter 45. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2006 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, 2005, 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, 2006. 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 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	\$6,644,733
0320-0010	For the operation of the clerk's office of the supreme judicial court for Suffolk County	\$1,094,075
0321-0001	For the operation of the commission on judicial conduct	\$538,187
0321-0100	For the services of the board of bar examiners	\$1,056,470

Committee for Public Counsel Services.

- 0321-1500 For the operation of the committee for public counsel services as authorized by chapter 211D of the General Laws; provided, that the committee shall submit a report to the clerks of the house of representatives and senate, not later than January 31, 2006 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 the 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 the committee by type of case; (g) the average number of hours spent per attorney or staff per type of case \$16,275,695
- 0321-1505 For additional costs of the public defender division; provided, that no funds from this appropriation shall support existing costs associated with line item 0321-1500; provided further, that the committee shall submit a report to the house and senate committees on ways and means not later than January 31, 2006 on the efficiencies gained from the additional resources provided in this item; provided further, that the report shall include, but not be limited to the following: (1) the number of assignment of counsel that this appropriation has shifted from private bar advocates to the public defender division since the effective date of this act, (2) the savings the commonwealth has realized from this appropriation since the effective date of this act, and (3) number of public defender positions filled and the location of the Sexually Dangerous Persons office \$657,436
- 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 2006; 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

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2005	\$95,146,675
0321-1518 The chief counsel for the committee for public services may expend an amount not to exceed \$750,000 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 of the amounts for the fees collected in fiscal year 2005 as calculated on a monthly basis	\$750,000
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 2006	\$7,460,513
0321-1600 For the Massachusetts Legal Assistance Corporation to provide legal representation for indigent or otherwise disadvantaged residents of the commonwealth; provided, that notwithstanding section 9 of chapter 221A of the General Laws, \$1,204,604 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 the corporation shall submit a report to the house and senate committees on ways and means not later than January 30, 2006 that shall include, but not be limited to the following: (a) the number of persons whom the programs funded by the corporation assisted in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; and (c) the total number of indigent or otherwise disadvantaged residents of the commonwealth who received services of the corporation, by type of case and geographic location; and provided further, that the corporation may contract with any organization for the purpose of providing the representation	\$8,564,142
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 ...	\$585,905
0321-2100 For the Massachusetts correctional legal services committee	\$750,000
0321-2205 For the expenses of the social law library located in Suffolk county	\$1,829,671

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 \$9,433,517

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 \$9,271,389

0330-0102 For the salaries of the justices of the district court department of the trial court \$18,509,673

0330-0103 For the salaries of the justices of the probate and family court department of the trial court \$5,778,489

0330-0104 For the salaries of the justices of the land court department of the trial court \$684,005

0330-0105 For the salaries of the justices of the Boston municipal court \$3,049,701

0330-0106 For the salaries of the justices of the housing court department of the trial court \$1,132,492

0330-0107 For the salaries of the justices of the juvenile court department of the trial court \$4,629,031

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 the chief justice for administration and management shall expend funds for the purposes of acquiring, through a lease agreement, suitable space in the town of Belchertown for the district court of eastern Hampshire by June 15, 2006; provided further, that funds from this item or any other item shall not be expended for the cost associated with the district court of eastern Hampshire, unless said division is located in the town

of Belchertown as of said date; provide further, notwithstanding any general or special law to the contrary, all criminal and civil business within the eastern Hampshire district court jurisdiction shall be conducted in the town of Belchertown as of said date; provided further, that said chief justice shall submit a report to the house and senate committees on ways and means not later than September 17, 2005 detailing the status of said lease agreement; provided further, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding 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 the office or position for not less than 1 year and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32; provided further, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$100,000 shall be expended from this item for a contract with Massachusetts General Hospital for a research program on abused children; 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 the 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 that in preparing the 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 the report

with the house and senate committees on ways and means on or before October 1, 2005; 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 the report shall include, but not be limited to, the number of cases in which the assessment was reduced or waived by a judge or clerk-magistrate within the courts; provided further, that the report shall be submitted to the victim and witness assistance board on or before January 14, 2006; and provided further, that not less than \$9,522,318 shall be expended for the rental of county court facilities, in accordance with section 4 of chapter 29A of the General Laws; and provided further, that all county facilities shall be reimbursed at 100 per cent from this item in fiscal year 2006 \$114,794,156

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 the 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 \$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 \$29,558 shall be expended for Berkshire Mediation Services Inc.; 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 \$62,811 shall be expended for Mediation Works, Inc; provided further, that not less than \$50,000 shall be expended for Quabbin Mediation in Athol; provided further, that not less than \$50,000 shall be expended for the Mediation and Training Collaborative of Franklin County in Greenfield; provided further, that not less than \$50,000 shall be expended for Framingham Court Medi-

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ation Services; provided further, that not less than \$50,000 shall be expended for the Cape Cod Dispute Resolution Center; provided further, that not less than \$50,000 shall be expended for the Community Dispute Settlement Center, Inc., of Cambridge; provided further, that not less than \$50,000 shall be expended for the Greater Brockton Center for Dispute Resolution; provided further, that not less than \$48,031 shall be expended for the Somerville 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 not less than \$30,000 shall be expended for the Martha's Vineyard Mediation Program; and provided further, that not less than \$42,737 shall be expended for Dispute Resolution Services, Inc. in the city of Springfield; and provided further, that not less than \$50,000 shall be expended for Community Mediation of Worcester \$842,737

0330-0441 For permanency mediation services in the probate and juvenile courts \$476,598

0330-3200 For the court security program, including personnel and expenses; provided, 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 31, 2006, detailing the number of court officers and security personnel located in each trial court of the commonwealth . . . \$54,610,296

0330-3333 The chief justice for administration and management may expend an amount not to exceed \$17,000,000 from fees charged and collected pursuant to section 3 of chapter 90C, chapter 185, section 22 of chapter 218 and sections 2, 4A, 4C, 39 and 40 of chapter 262 of the General Laws; provided, that the chief justice shall only expend or allocate funds from this item to the 7 departments of the trial court for the operation of the 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 30 days before the expenditures or allocations are made; provided further, that the only revenue available for expenditure in this item for fiscal year 2006 shall be revenue collected from the fees in excess of the amount collected and deposited into the General Fund in fiscal year 2003 from the fees; provided further, that no allocation shall occur until the

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schedules have been approved by the committees; provided further, that the fees shall continue to be transmitted to the treasurer for deposit into the General Fund before 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, the 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 \$17,000,000

0330-3334 The chief justice for administration and management may expend an amount not to exceed \$20,000,000 from fees charged and collected pursuant to section 87A of chapter 276 of the General Laws; provided, that the chief justice shall expend or allocate funds from this item only to the district court and Boston Municipal Court departments of the trial court for the operation of those 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 30 days before the expenditures or allocations are made; provided however, that the chief justice shall allocate or expend the funds authorized in this item 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 the fees shall continue to be transmitted to the treasurer for deposit into the General Fund before the expenditure authorized by this item \$20,000,000

Superior Court Department.

0331-0100 For the administrative office of the superior court department . . . \$6,248,393
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 \$716,338
0331-2200 For the Berkshire 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	\$201,536
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	\$858,760
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	\$160,515
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	\$1,447,990
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	\$299,747
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	\$1,288,286
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	\$310,264
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	\$3,232,440
0331-3000	For the Nantucket 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	\$135,265
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	\$1,186,622
0331-3200	For the Plymouth 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	\$1,087,829
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	\$2,974,243
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	\$1,940,875
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	\$1,070,743

District Court Department.

0332-0100	For the administrative office of the district court department, including a civil conciliation program	\$858,068
0332-1100	For the first district court of Barnstable	\$536,692
0332-1200	For the second district court of Barnstable at Orleans	\$385,694
0332-1203	For the third district court of Barnstable at Falmouth	\$385,344
0332-1300	For the district court of northern Berkshire at Adams, North Adams and Williamstown	\$272,317
0332-1400	For the district court of central Berkshire at Pittsfield	\$419,655
0332-1500	For the district court of southern Berkshire at Great Barrington and Lee	\$232,106
0332-1600	For the first district court of Bristol at Taunton	\$706,373
0332-1700	For the second district court of Bristol at Fall River	\$876,214
0332-1800	For the third district court of Bristol at New Bedford	\$946,315
0332-1900	For the fourth district court of Bristol at Attleboro	\$583,774
0332-2000	For the district court of Edgartown	\$169,016
0332-2100	For the first district court of Essex at Salem	\$698,915
0332-2300	For the third district court of Essex at Ipswich	\$197,955
0332-2400	For the central district court of northern Essex at Haverhill	\$594,818
0332-2500	For the district court of eastern Essex at Gloucester	\$298,508
0332-2600	For the district court of Lawrence	\$1,095,147
0332-2700	For the district court of southern Essex at Lynn	\$806,500

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0332-2800 For the district court of Newburyport	\$491,593
0332-2900 For the district court of Peabody	\$502,084
0332-3000 For the district court of Greenfield	\$341,966
0332-3100 For the district court of Orange	\$281,048
0332-3200 For the district court of Chicopee	\$418,616
0332-3300 For the district court of Holyoke	\$438,297
0332-3400 For the district court of eastern Hampden at Palmer	\$301,552
0332-3500 For the district court of Springfield	\$1,706,366
0332-3600 For the district court of western Hampden at Westfield	\$287,861
0332-3700 For the district court of Hampshire at Northampton	\$619,005
0332-3800 For the district court of eastern Hampshire at Belchertown	\$165,631
0332-3900 For the district court of Lowell	\$1,205,584
0332-4000 For the district court of Somerville	\$1,129,155
0332-4100 For the district court of Newton	\$366,447
0332-4200 For the district court of Marlborough	\$296,888
0332-4300 For the district court of Natick	\$418,616
0332-4400 For the first district court of eastern Middlesex at Malden	\$574,505
0332-4500 For the second district court of eastern Middlesex at Waltham	\$487,954
0332-4600 For the third district court of eastern Middlesex at Cambridge	\$1,223,279
0332-4700 For the fourth district court of eastern Middlesex at Woburn	\$675,132
0332-4800 For the first district court of northern Middlesex at Ayer	\$368,553
0332-4900 For the first district court of southern Middlesex at Framing- ham	\$774,063
0332-5000 For the district court of central Middlesex at Concord	\$389,025
0332-5100 For the district court of Nantucket	\$120,335
0332-5200 For the district court of northern Norfolk at Dedham	\$554,723
0332-5300 For the district court of East Norfolk at Quincy	\$1,565,700
0332-5400 For the district court of western Norfolk at Wrentham	\$466,815
0332-5500 For the district court of southern Norfolk at Stoughton	\$604,626
0332-5600 For the municipal court of Brookline	\$345,274
0332-5700 For the district court of Brockton	\$1,113,956
0332-5800 For the second district court of Plymouth at Hingham	\$636,849
0332-5900 For the third district court of Plymouth at Plymouth	\$790,980
0332-6000 For the fourth district court of Plymouth at Wareham	\$666,744
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	

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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	\$804,083
0332-6900 For the central district court of Worcester	\$1,534,374
0332-7000 For the district court of Fitchburg	\$502,366
0332-7100 For the district court of Leominster	\$395,211
0332-7200 For the district court of Winchendon	\$137,821
0332-7300 For the first district court of northern Worcester at Gardner	\$351,555
0332-7400 For the first district court of eastern Worcester at Westborough . . .	\$399,279
0332-7500 For the second district court of eastern Worcester at Clinton	\$275,209
0332-7600 For the district court of southern Worcester at Dudley	\$475,146
0332-7700 For the second district court of southern Worcester at Uxbridge . . .	\$316,362
0332-7800 For the third district court of southern Worcester at Milford	\$302,513
0332-7900 For the district court of western Worcester at East Brookfield	\$316,156

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	\$1,307,828
0333-0100 For the Barnstable probate court	\$981,581
0333-0150 For the operation of a child and parents program in the Barnstable probate court	\$79,495
0333-0200 For the Berkshire probate court	\$515,505
0333-0300 For the Bristol probate court	\$1,619,752
0333-0400 For the Dukes probate court	\$122,327
0333-0500 For the Essex probate court	\$1,305,319
0333-0600 For the Franklin probate court	\$519,668
0333-0700 For the Hampden probate court	\$2,061,173
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	\$645,228
0333-0900 For the Middlesex probate court	\$3,377,715
0333-0911 For the Middlesex probate court family services clinic	\$193,762
0333-1000 For the Nantucket probate court	\$175,577

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0333-1100 For the Norfolk probate court	\$1,515,401
0333-1111 For the Norfolk probate court family services clinic	\$139,772
0333-1200 For the Plymouth probate court	\$1,359,173
0333-1300 For the Suffolk probate court	\$2,240,115
0333-1313 For the Suffolk probate community access program of communi- ty outreach and education; provided, that said program shall be targeted at low income persons who experience education- al and language barriers to court access; and provided further, that said program shall be administered by the register of probate of Suffolk county	\$191,719
0333-1400 For the Worcester probate court	\$1,682,350
0333-1411 For the Worcester probate court family services clinic	\$169,362

Land Court Department.

0334-0001 For the operation of the land court	\$2,386,331
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Boston Municipal Court Department.

0335-0001 For the central division of the Boston municipal court department including the administrative costs 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
0335-0700 For the West Roxbury division of the Boston municipal court department	\$733,061

Housing Court Department.

0336-0002 For the administrative office of the housing court department	\$103,132
0336-0100 For the Boston housing court	\$932,876
0336-0200 For the western division of the housing court	\$691,755
0336-0300 For the Worcester county housing court	\$694,614

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0336-0400 For the southeastern division of the housing court	\$1,214,514
0336-0500 For the northeastern division of the housing court	\$650,698

Juvenile Court Department.

0337-0002 For the administrative office of the juvenile court department	\$895,237
0337-0100 For the Suffolk county juvenile courts	\$1,250,224
0337-0200 For the Bristol juvenile court	\$1,248,840
0337-0300 For the Hampden county juvenile courts; provided that \$145,841 shall be expended for the CASA program in Springfield Juvenile Courts	\$1,297,623
0337-0400 For the Worcester county juvenile courts; provided further, that \$72,920 shall be expended for the CASA program in the Worcester Juvenile Court	\$1,083,597
0337-0500 For the Barnstable county juvenile court, including the Barnstable county juvenile court located in the town of Plymouth	\$737,608
0337-0600 For the Essex county juvenile courts; provided further, that \$100,000 shall be expended for the CASA program in the Lawrence Juvenile Court	\$1,055,220
0337-0700 For the Hampshire and Franklin counties juvenile courts; provided further, that \$77,478 shall be expended for the Franklin/Hampshire CASA Program, including Northampton, Greenfield, Orange and Ware District Courts	\$686,132
0337-0800 For the Plymouth county juvenile courts; provided further, that \$72,920 shall be expended for the CASA program in the Plymouth County Juvenile Court	\$790,686
0337-0900 For the Berkshire county juvenile courts; provided further, that \$54,690 shall be expended for a Berkshire CASA program in the Berkshire County Juvenile Court	\$499,471
0337-1000 For the Middlesex county juvenile courts	\$1,104,188
0337-1100 For the Norfolk county juvenile courts	\$916,996

Office of the Commissioner of Probation.

0339-1001 For the office of the commissioner of probation; provided, that notwithstanding the any general or special law, rule or regulation to the contrary, the 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,	
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that the 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; provided further, that notwithstanding 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; provided further, that the office shall enter into an interagency service agreement with the department of revenue to verify income data and to utilize the departments wage reporting and bank match system for the purpose of weekly tape-matching, so-called, for the purposes of determining an individual's eligibility for appointment of indigent counsel, as defined in chapter 211D of the General Laws; provided further, that the office shall submit quarterly reports to the house and senate committees on ways and means detailing the progress of eligibility verification with the department; and provided further, that the report shall include, but not be limited to, the number of individuals to be found misrepresenting assets, revenue generated through collection of indigent client fees, the average indigent client fee that each court division collects per case since the effective date of this act, recommendations on improvements in verifying eligibility for counsel and other pertinent information to ascertain the effectiveness of verification; and provided further, that not less than \$2,000,000 shall be expended for the commissioner of probation to implement a global positioning system in collaboration with the Massachusetts parole board utilizing ankle bracelets to track level 3 sex offenders actively on parole and sex offenders currently being supervised by the office of the commissioner of probation and considered appropriate for tracking by the commissioner \$117,890,795

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0339-1003	For the operation of the trial court office of community corrections, including the costs of personnel	\$5,100,000
0339-1004	For the cost of intensive supervision and community corrections programs; provided, that the 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 the 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 the 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 2006; 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 the 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 the executive director; provided further, that the executive director shall submit a spending and management plan for the programs to the house and senate committees on ways and means not later than January 30, 2006; and provided further, that the plan shall include the projected number of probationers to be served by each program and include a description of the oversight and services provided to the probationers	\$12,564,824

Office of the Jury Commissioner.

0339-2100	For the office of the jury commissioner in accordance with chapter 234A of the General Laws	\$1,990,901
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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, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that not more than \$125,000 shall be expended for a North Dorchester safe neighborhood initiative, in Suffolk county; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that not more than \$125,000 shall be expended for a safe neighborhood initiative, in Suffolk county; provided further, that not less than \$150,000 shall be expended for the purpose of a targeted controlled substance interdiction pilot program to be administered jointly by the district attorney for Suffolk county and the chiefs of police for the city of Revere and the town of Winthrop; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than June 1, 2006 which shall include, but not be limited to, the quantity and nature of drug seizures resulting from the implementation of the pilot program; provided further, that the office shall submit a report to the house and

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senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$14,312,233

0340-0101 For the overtime costs of state police officers assigned to the Suffolk district attorney's office	\$345,683
General Fund	11.80%
Highway Fund	88.20%

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, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years;

and (c) balance of the trust fund as of January 1, 2006; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2005 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 the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in said program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$11,189,824

0340-0201 For the overtime costs of state police officers assigned to the Middlesex district attorney's office \$478,682
 General Fund 11.80%
 Highway Fund 88.20%

Eastern District Attorney.

0340-0300 For the Eastern district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d)

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and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; provided further, that funds may be expended for increases in salaries for assistant district attorneys; and provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program \$6,781,556

0340-0301 For the overtime costs of state police officers assigned to the Eastern district attorney's office \$447,132
 General Fund 11.80%
 Highway Fund 88.20%

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, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$7,220,929

0340-0401	For the overtime costs of state police officers assigned to the Worcester district attorney's office	\$393,480
	General Fund 11.80%	
	Highway Fund 88.20%	
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	\$450,000

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, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$6,672,786

0340-0501 For the overtime costs of state police officers assigned to the Hampden district attorney's office \$322,619

General Fund	11.80%
Highway Fund	88.20%

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 the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in said fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; provided further, that not less than \$150,000 shall be expended for the salaries and expenses of a children's

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advocacy project; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$4,391,858

0340-0601 For the overtime costs of state police officers assigned to the Hampshire/Franklin district attorney's office \$226,191

 General Fund 11.80%

 Highway Fund 88.20%

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 the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name

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and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$7,312,181

0340-0701 For the overtime costs of state police officers assigned to the Norfolk district attorney's office \$416,910
 General Fund 11.80%
 Highway Fund 88.20%

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 the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program,

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so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$6,034,575

0340-0801 For the overtime costs of state police officers assigned to the Plymouth district attorney's office	\$340,554
General Fund	11.80%
Highway Fund	88.20%

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, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that the office shall submit a report to the house and senate committees on ways and means not later

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than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$6,203,381

0340-0901 For the overtime costs of state police officers assigned to the Bristol district attorney's office	\$318,380
General Fund	11.80%
Highway Fund	88.20%

Cape and Islands District Attorney.

0340-1000 For the Cape and Islands district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that \$125,000 shall be expended to support the sex offender management unit; provided further, that 2 prosecutors and administrative support shall be provided to the Cape Cod offender management task force; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any

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volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that not more than \$20,000 be expended for Cape & Islands Child Advocacy Center at Children's Cove in Hyannis; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$3,200,380

0340-1001 For the overtime costs of state police officers assigned to the Cape and Islands district attorney's office \$271,954
 General Fund 11.80%
 Highway Fund 88.20%

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 the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2005 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 50 per cent of

fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 15, 2006 detailing the office's use of drug forfeiture funds, so-called, collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) amount of the funds deposited into the office's special law enforcement trust fund, so-called, in fiscal years 2003, 2004 and 2005; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2006; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the total number and use of private attorneys participating in any volunteer prosecutor program, so-called; provided further, that the report shall include, but not be limited to, the following: 1) total number of personnel from private law firms participating in the program; 2) name and address of the law firms; 3) duties performed by the personnel; and 4) benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that funds may be expended for increases in salaries for assistant district attorneys \$2,944,751

0340-1101 For the overtime costs of state police officers assigned to the Berkshire district attorney's office \$126,739
 General Fund 11.80%
 Highway Fund 88.20%

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 2006 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 January 30, 2006; 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 2006 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 association shall submit a report to the house and senate committees on ways and means not later than January 31, 2006 detailing, by district attorney office, all sources of revenue, including, but not limited to, federal and state grants that were received in fiscal year 2005, and the amount of each source of revenue . . . \$1,750,056

0340-8908 For the costs associated with maintaining the association's wide area network . . . \$1,344,453

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

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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 2006 \$5,135,418

SECRETARY OF THE COMMONWEALTH.

Office of the Secretary of the Commonwealth.

- 0511-0000 For the operation of the office of the secretary; provided, that the office shall submit a report detailing staffing patterns for each program operated by the office; provided further, that the 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 the office shall submit the report not later than January 31, 2006 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 before the transfer; provided further, that each register of deeds using electronic record books shall ensure that all methods of electronically recording instruments conform to any regulation or standard established by the state secretary or the records conservation board, and those regulations shall be promulgated no later than June 30, 2006 \$6,767,487
- 0511-0001 The state secretary may 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

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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 \$75,000 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 \$75,000

0511-0200	For the operation of the state archives division	\$539,562
0511-0230	For the operation of the records center	\$156,185
0511-0250	For the operation of the archives facility	\$421,554
0511-0260	For the operation of the commonwealth museum	\$192,990
0511-0420	For the operation of the address confidentiality program	\$112,991
0517-0000	For the printing of public documents	\$900,222
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, Lawrence and Worcester; provided further, that the registration and education activities may be conducted by community-based voter registration and education organizations; and provided further, that the secretary shall submit a report to the house and senate committees on ways and means not later than January 31, 2006 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	\$3,676,775
0521-0001	For the operation of the central voter registration computer system; provided, that an annual report detailing voter registration activity shall be submitted to the house and senate committees on ways and means on or before January 31, 2006	\$4,496,243
0524-0000	For providing information to voters	\$583,744
0526-0100	For the operation of the Massachusetts Historical Commission	\$974,614
0527-0100	For the operation of the ballot law commission	\$12,380
0528-0100	For the operation of the records conservation board	\$39,307

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0540-0900	For the registry of deeds located in Lawrence in the former county of Essex	\$817,144
0540-1000	For the registry of deeds located in Salem in the former county of Essex	\$2,634,369
0540-1100	For the registry of deeds in the former county of Franklin	\$564,763
0540-1200	For the registry of deeds in the former county of Hampden	\$2,115,679
0540-1300	For the registry of deeds in the former county of Hampshire	\$590,621
0540-1400	For the registry of deeds located in Lowell in the former county of Middlesex	\$1,347,127
0540-1500	For the registry of deeds located in Cambridge in the former county of Middlesex	\$3,453,964
0540-1600	For the registry of deeds located in Adams in the former county of Berkshire	\$306,631
0540-1700	For the registry of deeds located in Pittsfield in the former county of Berkshire	\$494,884
0540-1800	For the registry of deeds located in Great Barrington in the former county of Berkshire	\$259,025
0540-1900	For the registry of deeds in the former county of Suffolk	\$2,220,555
0540-2000	For the registry of deeds located in Fitchburg in the former county of Worcester	\$764,143
0540-2100	For the registry of deeds located in the city of Worcester in the former county of Worcester	\$2,049,918

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver General.

0610-0000 For the office of the treasurer and receiver-general; provided, that the treasurer shall provide computer services required by the teachers' retirement board; provided further, that to the extent that bank fees 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 not less than \$37,000 shall be granted to the elder advocacy organization known as the Silver-Haired Legislature; 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

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	or superintendent of any correctional facility pursuant to section 8 of chapter 258B; provided further, that the report shall be submitted to the board on or before January 31, 2006; and provided further, that the treasurer's office shall pay half of the administrative costs of the municipal finance oversight board from this item	\$7,240,296
	General Fund	.....	90.0%
	Highway Fund	.....	10.0%
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 traffic of alcoholic beverages	.....	\$1,868,212
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	.....	\$3,600,000
	General Fund	.....	90.0%
	Highway Fund	.....	10.0%
0610-0140	For the purpose of funding administrative, transactional and research expenses associated with maintaining and increasing the interest earnings on the Commonwealth's General and Stabilization Fund investments	.....	\$75,000
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		

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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	\$50,000
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	\$16,100,000
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	\$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
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Commission on Firefighters' Relief.

0620-0000	For financial assistance to injured firefighters	\$9,808
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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; 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	\$68,690,397
0640-0001	For the operation of the state lottery commission; provided, that the commission may seek revenue from corporate advertising	

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- for non-lottery products on all lottery products; 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 \$10,000,000
- 0640-0013 For the costs of the anti-litter program; provided, that said lottery may continue to develop regional environmental awareness events to limit the number of discarded instant tickets that become litter; 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 \$100,000
- 0640-0096 For the purpose of the commonwealth's fiscal year 2006 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 \$355,945

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 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

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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 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 the 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; and provided further, that a grant made under this program shall not exceed \$100,000; and provided further, that a person employed under this item shall be considered an employee within the meaning of section 1 of chapter 150E of the General Laws and shall be placed in the appropriate bargaining unit \$7,400,000

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 Arts Lottery Fund to the General Fund \$743,520

0640-0351 For the John and Abigail Adams Arts Program, to promote innovations in the arts and humanities within the commonwealth through the disbursement of cultural economic development

grants including grants for cultural activities that have the capacity to revitalize communities, stimulate income, create or enhance jobs, and attract tourism; provided, that the funds shall be administered by the Massachusetts cultural council; provided further, that the mission of grant applicants may include demonstrated scholarship or creativity in, or distinguished service to, the arts and humanities; provided, that grants may focus on seed funding for early stage planning or implementation, creation of enduring partnerships among cultural and non-cultural organizations, defined community needs or opportunities, and creation of innovative and sustainable development models that can be replicated throughout and beyond the commonwealth; provided further, that eligible applicants shall include, but not be limited to, not-for-profit organizations and public sector entities; provided further, that collaborating partners may also include private, for-profit organizations, educational institutions and state or federal agencies; provided further, that grants shall not exceed \$100,000 and shall be leveraged by not less than \$1 for each \$1 granted; provided further, that preference shall be given to an applicant with multiple funding sources that can demonstrate project viability, community support and potential for long-term sustainability; 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 \$1,500,000

Debt Service.

0699-0015 For the payment of interest, discount and principal on certain bonded debt and the sale of bonds of the commonwealth, previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Parks District Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, the Watershed Management Fund, the Highway Fund, and the Inter-City Bus Fund; provided, that payments of certain serial bonds maturing previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, and the Highway Fund shall be paid from this

item; provided further, that 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 the 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, 2006, 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, 2006; 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 amount by which debt service charged to said fund exceeds revenue deposited to said fund \$1,626,196,000

General Fund	68.07%
Highway Fund	31.93%

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 \$65,330,000

Highway Fund	100.0%
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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 the funds in accordance with the schedule; and provided further, that any deficit in this item at the close of the fiscal year ending June 30, 2006 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	\$67,408,000
0699-9200	For certain debt service contract assistance to the Massachusetts Development Finance Agency in accordance with chapter 23G of the General Laws	\$13,281,000

STATE AUDITOR.

Office of the State Auditor.

0710-0000 For the office of the state auditor, including the review and monitoring of privatization contracts in accordance with 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 and senate committees on ways and means not later than December 1, 2004 delineating the privatization contracts reviewed and monitored during fiscal year 2004; 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; provided further, that not less than \$67,250 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 the commission in a manner that is

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	consistent with said section 2B; provided further, that the auditor's office shall pay half of the administrative costs of the municipal finance oversight board from this item	\$15,125,688
0710-0100	For the operation of the division of local mandates	\$585,103
0710-0200	For the operation of the bureau of special investigations; provided, 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	\$1,600,000

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 for 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 the Dorchester district of the city of Boston and in the city of New Bedford; provided further, that the public proceedings unit shall review the water rate increases; provided further, that not more than \$240,000 shall be expended for the operation of a child protection unit; provided further, that funds may be expended for the commission on uniform state laws; provided further, that \$50,000 shall be expended for the Trauma Intervention Pro-

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	gram of Merrimack Valley; and provided further, that \$260,000 shall be expended for the Ella J. Baker House in the city of Boston for violence prevention programs for high-risk youth	\$21,998,002
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
0810-0006	For the rental costs and unavoidable space rental lease obligations associated with certain divisions of the office of the attorney general located in the Leverett Saltonstall building	\$2,414,150
0810-0007	For the overtime costs of state police officers assigned to the attorney general; provided, that costs associated with those officers shall not be funded from item 8100-0007; and provided further, that expenditures shall not 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 the unit shall be equal to the amount expended from this item and provided further, that not less than \$200,000 shall be expended for the expenses of legal and technical personnel and associated administrative and travel expenses relative to participation in regulatory proceedings at	

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	the Federal Energy Regulatory Commission on behalf of Massachusetts ratepayers	\$1,609,028
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 the 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 the 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 of said chapter 111	\$2,687,349
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 any general or special law to the contrary, a non-management position funded by this item shall be considered a job title in a collective bargaining unit as prescribed by the labor relations commission and shall be subject to chapter 150E of the General Laws	\$3,105,528
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 the costs shall be equal to the amount expended from this item	\$1,389,979

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

Victim and Witness Assistance Board

- 0840-0100 For the operation of the victim and witness assistance board; provided, that the board shall submit a comprehensive report compiled from the information required of and submitted to the 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 the report shall be submitted to the house and senate committees on ways and means on or before February 15, 2006 \$398,845
- 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 Belchertown district courts; provided further, that funds may be expended by the Massachusetts office for victim assistance to administer the program; and provided further, that said office shall submit to the house and senate committees on ways and means not later than February 3, 2006 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

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with other service providers and state agencies \$619,073

STATE ETHICS COMMISSION.

0900-0100 For the operation of the state ethics commission \$1,415,000

OFFICE OF THE INSPECTOR GENERAL

0910-0200 For the operation of the office of the inspector general \$2,600,000

0910-0210 The office of the inspector general may expend revenues collected up to a maximum of \$493,819 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 \$493,819

OFFICE OF CAMPAIGN AND POLITICAL FINANCE.

0920-0300 For the operation of the office of campaign and political finance \$1,078,287

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, 2006 in accordance with generally accepted accounting principles; provided, that the office of the comptroller shall charge other items of appropriation for the cost of the 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 the 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 for administration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues and revenues collected; 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 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the 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 60 days before entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information; 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; 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 \$8,448,692

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, 2005; 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; provided further, that notwithstanding any general or special law or regulation to the

contrary, the secretary for administration and finance, in consultation with the state secretary, shall, not later than October 31, 2005 issue a request for purchase through the competitive bidding process for the provision of public records storage, except those records that receive federal reimbursement, for all state agencies within the jurisdiction of the governor in order to achieve cost savings including, but not limited to, those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel; provided further, that the secretary, in consultation with the state secretary, shall report, not later than March 31, 2006, a plan to improve public records storage and office space efficiencies to the joint committee on state administration and to the house and senate committees on ways and means; and 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 item 1000-0001 \$3,433,853

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 \$6,100,000 in revenues collected from rentals, commissions, fees, parking fees and any and all other sources pertaining to the operations of said center; provided, 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 \$6,100,000
- 1102-3206 For the costs associated with the maintenance and security of surplus state properties; provided, that the commissioner of the division of capital asset management and maintenance shall transfer care and control of a certain parcel of land with the building thereon, located at 291 Summer Street, Lowell and recorded with the Middlesex county northern district

registry of deeds, Book 1491, Page 170, to the Middlesex sheriff; provided further, that the commissioner of the division of capital asset management and maintenance shall complete study number SDE 0301ST1 regarding the site location of the proposed regional holding facility in Essex county by July 31, 2005; 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, 2004, 2005 and 2006 to the house and senate committees on ways and means on or before January 11, 2006 \$359,208

1102-3214 For the state transportation building; provided, that the division may expend revenues collected up to a maximum of \$6,840,000 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 \$6,840,000

1102-3231 For the Springfield state office building; provided, that the division may expend not more than \$700,000 in revenues from rents charged to agencies occupying the building for the maintenance and operation of the 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 \$700,000

1102-3232 For the division of capital asset maintenance and management; provided, that the division may expend not more than \$300,000 received from application fees charged in conjunction with the certification of contractors and subcontractors pursuant to section 44D of chapter 149 of the General Laws;

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and provided further, that only expenses, including staffing, incurred to implement and operate the certification program shall be funded from this item \$300,000

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 jurisdiction over all contracts, purchases and payments for materials and services required in the operation of the bureau \$6,549,189

1102-3302 For the purposes of utility costs and associated contracts for the properties managed by the bureau of state office buildings . . . \$5,061,342

1102-3305 For the maintenance and joint operation of the state house under the jurisdiction of the state superintendent of state office buildings and the legislature's joint committee on rules; provided, that the bureau shall work in coordination with the house of representatives and the senate relative to the maintenance, repair, purchases and payments for materials and services, including ongoing Americans with Disabilities Act (ADA) maintenance and improvements required in the operation of the state house \$750,000

Office on Disability.

1107-2400 For the office on disability; provided, that \$125,000 shall be used to develop training materials for employees working in the state house on the Americans With Disabilities Act, including how to assist people with disabilities within the state house . . . \$730,280

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 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; 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 \$1,746,915

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 \$478,073

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 \$2,291,969

1108-5200 For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 2006; 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 fur-

ther, that prior year costs incurred by self insured plans 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 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 1 year; provided further, that the amounts received in payment for the 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 chapter 32A and for the purposes of section 14 of 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 the premiums for active state employees and their dependents whose salary, as determined by the 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 the premiums and rates; provided further, that the commonwealth's share of the premiums for active state employees and their dependents whose salary, as determined by the commission in consultation with the human resources division and the office of the state comptroller, is \$35,000 or more shall be 80 per cent of

the premiums and rates; provided further, that the preceding provisions pursuant to employee contributions shall expire December 31, 2005 at which time the commonwealth's share of the 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 the preceding provision pursuant to employee contributions shall expire December 31, 2005 at which time the commonwealth's share of the premiums for active state employees hired after June 30, 2003 and their dependents shall be 80 per cent; and provided further, that the commission shall notify the house and senate committees on ways and means by March 1 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year \$949,010,107

1108-5350 For elderly governmental retired employee premium payments . . . \$1,088,542

1108-5400 For the costs of the retired municipal teachers' premiums and the audit of such premiums \$64,161,035

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 those benefits pursuant to a separate appropriation or the terms of a contract or collective bargaining agreement; provided, that the employees shall pay 15 per cent of the monthly premium established by the commission for the benefits \$6,638,836

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; 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; and 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

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law judge of the division, shall be an agency decision subject to judicial review pursuant to chapter 30A of the General Laws \$1,102,144

George Fingold Library.

1120-4005 For the administration of the library; provided, that the library shall maintain regular hours of operation from 9:00 a.m. to 5:00 p.m. \$1,192,449

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, 2002; provided, that on or before November 1, 2005 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 the committees on or before March 1, 2006; 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 the Massachusetts Bay Transportation Authority is named as a respondent; provided further, that the commission shall report to the house and senate committees on ways and means on or before November 1, 2005 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 the cases in which there is probable cause to believe that a violation of said 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 2005 and the total number of cases closed by the commission in fiscal year 2005; 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 \$1,526,374

1150-5104 The Massachusetts commission against discrimination may expend not more than \$2,467,982 from 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 2006 and federal reimbursements received for these and other programs in prior years; provided, that notwithstanding any general or special law to the contrary, the commission may also expend revenues generated through the collection of fees and costs so authorized; provided further, 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 not more than \$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, Springfield, Pittsfield, Fall River, and Worcester and in the Hyannis section of the town of Barnstable; provided further, that the department shall provide 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; and provided further, that seasonal positions funded by this account may not be filled by incumbent for more than 10 months within a 12 month period \$116,943,409
General Fund 95.0%
Highway Fund 5.0%

1201-0130 The department of revenue may expend an amount not to exceed \$9,640,000 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 a tax return or the payment of a tax due and payable to the commonwealth, for the costs of obtaining those delinquent returns and collecting those delinquent taxes for a prior fiscal year; provided, that the commissioner may expend funds from this item to support the operational costs of the department funded from item 1201-0100; 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, 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 \$9,640,000

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 those agencies may expend the 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 the 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 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 the authorization or the most recent revenue estimate therefor as reported in the state accounting system for federal incentives and said network in accounts 1201-0161 and 1201-0410 \$48,252,766

- 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 \$12,500,000
- 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 the program shall be in addition to the loan program established pursuant to item

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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 the third parties shall take all steps necessary to minimize the program's administrative costs; provided further, that the 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.

- 1232-0100 For underground storage tank reimbursements to parties that have remediated spills of petroleum products pursuant to chapter 21J of the General Laws \$18,200,000
- 1232-0200 For the Underground Storage Tank Petroleum Cleanup Fund Administrative Review Board established by section 8 of 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 the 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 said chapter 21J; and provided further, that the report shall be submitted not later than February 16, 2006 \$2,026,989
- 1232-0300 For underground storage tank municipal grants to remove and replace the tanks pursuant to section 2 of chapter 21J of the

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General Laws and section 37A of chapter 148 of the General Laws	\$489,901
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 said clause Forty-first B or clause Forty-first C for additional costs incurred in determining eligibility of applicants under those 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 no later than December 1, 2005 on the number of hearings held at each location	\$1,766,095
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

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 the payments shall be consistent with the purposes	
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	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 department of veterans' services; provided, that the department may fund a housing specialist from this item; provided further, that not less than \$10,000 shall be expended for the purpose of maintaining the Massachusetts Vietnam Veterans Memorial located in the Green Hill park in Worcester; provided further, that not less than \$10,000 shall be expended for the Korean War Veterans Committee of Massachusetts for the purpose of maintaining the Korean War Memorial located in the shipyard park of the Charlestown Navy Yard; and provided further, that the department may expend funds for the Glory 54th Brigade	\$1,909,209
1410-0012	For services to veterans, including the maintenance and operation of outreach centers; provided, that the 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 \$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 \$100,000 shall be obligated for a contract with Nam Vets Association of the Cape and Islands in the Hyannis section of the town of Barnstable; provided further, that not less than \$292,480 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; provided further, that not less than \$30,000 shall be expended for the oral history project at the Morse Institute Library in Natick; provided further, that not less than \$100,000 shall be expended for veteran's services to be administered by the Falmouth veterans agent through the Falmouth Free Clinic and Community Center; and provided further, that not less than \$134,879 shall be obligated for a contract with the Puerto Rican Veterans Association of Mass-	

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	achusetts, Inc., in the city of Springfield	\$1,294,420
1410-0015	For the women veterans' outreach program	\$42,281
1410-0018	The department may expend not more than \$300,000 for the maintenance and operation of Agawam and Winchendon veterans' cemeteries from revenue collected from fees, grants, gifts or other contributions to the cemeteries; prior appropriations continued	\$300,000
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; provided, that not less than \$475,105 shall be obligated for a contract with the central Massachusetts Shelter for Homeless Veterans 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. in the city of New Bedford; provided further, that \$100,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse in the Dorchester section of the city of Boston; provided further, that not less than \$199,405 shall be obligated for a contract with Unity House in the city of Gardner; provided further, that not less than \$75,000 shall be obligated for a contract with the Transition House 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 \$28,350 shall be obligated for a contract with the Homestead in the town of Hyannis; provided further, that not less than \$200,000 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 in the Roxbury section of the city of Boston; provided further, that not less than \$44,888 shall be provided for a contract with the Mansion in the city of Haverhill; provided further, that not less than \$200,000 shall be obligated	

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	for a contract with the United Veterans of America shelter in the town of Leeds; and provided further, that not less than \$190,000 shall be obligated for a contract with Habitat P.L.U.S. in the city of Lynn	\$2,013,318
1410-0251	For 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	\$2,258,043
1410-0300	For the payment of annuities to certain disabled veterans and the parents and unremarried 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 2006 shall not exceed the amount appropriated herein; and provided further, that the secretary 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	\$12,339,263
1410-0400	For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans under section 6 of chapter 115 of the General Laws; provided, 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 secretary of veteran services may continue a training program for veterans' agents and directors of veterans' services in cities and towns; provided further, that the purpose of the training program shall be to maximize federal assistance available for veterans and to assure that the 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 the training program shall include benefits available under said chapter 115 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 secretary shall promulgate regulations for the training program; provided further, that upon successful participation by the veterans' agents or directors of veterans' services in the training program, the costs of the 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 the costs were paid; provided further, that any person applying for veterans' benefits to pay for services available under chapter 118E of the General Laws, shall also apply for medical assistance under said chapter 118E to minimize cost of the commonwealth and its municipalities; provided further, that veterans' agents shall complete applications authorized by the executive office under said chapter 118E for any veteran, widow and dependent applying for medical assistance under said 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 executive office shall act on all said chapter 118E applications and advise the applicant and the veterans' agent of the applicant's eligibility for said chapter 118E healthcare; provided further, that the veterans' agent shall advise the applicant of the right to assistance for medical benefits under said chapter 115 pending approval of the application for assistance under said chapter 118E by the executive office provided further, that the secretary 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 said chapter 115 shall not be considered income for the purposes of determining eligibility under said chapter 118E; and provided further, that benefits awarded pursuant to section 6B of said chapter 115 shall be considered countable income \$13,805,284

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1410-0630 For the administration of the veterans' cemeteries in the towns of
Agawam and Winchendon \$866,448

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 the
assistance shall be expended notwithstanding section 35J of
chapter 10 of the General Laws \$14,735,000

1599-0042 For a reserve to improve the quality of the commonwealth's child
care system by enabling child care providers to better attract
and retain quality staff; provided, that payments from this
reserve shall be distributed by the department of early
education and care to increase reimbursement rates for
subsidized child care; provided further, that the increases shall
be directed to expenditures for salaries, benefits, and stipends
for professional development of child care workers; and
provided further, that such increases may be allocated to
adjust rates of reimbursement paid to each provider by the
same percentage across the commonwealth \$12,500,000

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 \$26,755,000

1599-0093 For contract assistance to the water pollution abatement trust for
debt service obligations of the trust, in accordance with
sections 6 and 6A of chapter 29C of the General Laws \$55,166,537

1599-1970 For a reserve for the Massachusetts turnpike authority for costs
incurred in fiscal year 2005 for the operation and maintenance
of the central artery/tunnel project pursuant to chapter 235 of
the acts of 1998 \$25,000,000

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 for administration and
finance shall submit to the house and senate committees on
post audit and oversight, the house and senate committees on
transportation and the house and senate committees on ways
and means a report on snow and ice control efforts no later
than September 1, 2005 which shall include, but not be limi-

ted to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 2004 and 2005; (b) a detailed account of the administrative oversight exercised by either the secretary for administration and finance, the secretary of transportation 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; (c) information on the transponder program including, but not limited to, the number and cost of transponders leased or purchased, costs associated with maintenance and warranties for the transponders, the useful life of the transponders, the number of incidents when transponders failed or malfunctioned, the number of transponders that were damaged, estimated costs of continuing the program, the compliance rate of vendors using transponders, the number of transponders that were damaged or broken, the number of appeals by contractors for transponders that may have failed or malfunctioned, a list of any contractors that were accused of, charged with or prosecuted for fraudulent snow and ice removal claims; and (d) any other information that the 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 the report indicates how many salt storage facilities in the commonwealth are in conformance with section 7A of chapter 85 of the General Laws and how many are not \$10,500,000

1599-3234 For the commonwealth's south Essex sewerage district debt service assessment \$93,550

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 the current fiscal year 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 \$4,837,211

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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 the 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 the department, on or before the promulgation date of the department's regulations related to the implementation of the federal Safe Drinking Water Act	\$7,852,853
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 the department's regulations related to the implementation of the federal Safe Drinking Water Act	\$9,465,260
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	\$1,300,000
1599-4408	For a reserve for costs incurred to comply with the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193), or any successor federal statute, including but not limited to, state work participation requirements, subsequent to the expiration of the commonwealth's federal welfare waiver on September 30, 2005, or with any additional costs or requirements imposed as a result of any legislation enacted by the general court subsequent to reauthorization of the federal temporary aid for needy families block grant; provided, that not less than \$6,000,000 shall be made available to the department of transitional assistance for additional services in item 4401-1000, the employment services program, administered within the department; provided further, that not less than \$6,000,000 shall be made available to the department of early education and care for additional child care vouchers and contracts, according to the provisions of item 3000-4050 and	

for the administration of the vouchers and contracts by child care resource and referral agencies, according to the provisions of item 3000-2000; provided further, that the secretary of administration and finance, the commissioner of the department of transitional assistance and the commissioner of the department of early education and care, shall, not later than January 15, 2006, jointly issue a preliminary report, and not later than April 1, 2006, issue a final report on planned expenditures from this item, on any federal actions impacting the state transitional assistance program, and on any legislative proposals the department may recommend in response to the actions; provided further, that, if the reports include legislative or administrative recommendations in response to federal actions, the reports shall include a description of all new requirements proposed to be imposed on recipients of transitional aid to families with dependent children as a result of federal actions, an analysis of the individuals proposed to be subject to work requirements as a result of the actions, including an analysis of which individuals may reasonably be expected to obtain employment with proper assistance and which require an alternative plan or strategy for achieving self-sufficiency, and a detailed plan for addressing the needs of any recipient who would be subject to work requirements under such proposal; provided further, that the reports shall be provided to the chairpersons of the house and senate ways and means committees, the house and senate chairpersons of the joint committee on children and families and the house and senate chairpersons of the joint committee on education; and provided further, that nothing in the foregoing authorizes the department of transitional assistance to impose rules or requirements that are not authorized by section 110 of chapter 5 of the acts of 1995 \$12,000,000

1599-6901 For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that the secretary of administration and finance may allocate the funds appropriated in this item to the

departments in order to implement this initiative; provided further, that the executive office of health and human services shall condition the expenditure of the reserve upon assurances that the funds shall be used solely for the purposes of adjustments to wages, compensation or salary; provided further, that not later than February 15, 2006, the executive office shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 2006 and the average percentage adjustment funded by this reserve; provided further, that the report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive the adjustments; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for child care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that the total fiscal year 2006 cost of salary adjustments and any other associated employee costs authorized thereunder shall not exceed \$20,000,000; provided further, that \$14,000,000 shall be expended in fiscal year 2006 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$6,000,000 shall be expended in fiscal year 2006 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that the

annualized cost of the adjustments in fiscal year 2007 shall not exceed the amount appropriated herein; and provided further, that the raises provided through this item shall be in addition to any already agreed to or collectively bargained for pay increases \$20,000,000

1599-7092 For a reserve for the county correctional programs; provided, that notwithstanding any general or special laws to the contrary, the sheriffs, in conjunction with the county government finance review board, shall maintain and continue to collaborate with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting and Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 unless the plan is in place; provided further, that the county government finance review board shall, by January 1, 2006, have developed a plan for the spending of all funds for fiscal year 2006, and developed a sound fiscal spending plan for fiscal year 2007; provided further, that the 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, 2006 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, 2006; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2006 and 2007; provided further, that the board shall release all funds from fiscal year 2006 quarterly; provided further, that any sheriff that spends more than the quarterly approved budget shall have the money allocated 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 funds shall not be spent from this item nor any funds be transferred from this item to another item until

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	all of the aforementioned restrictions and conditions have been satisfied	\$39,319,632
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	\$2,565,093
1599-7780	For a reserve for the costs of rent and relocation for the eastern district attorney's office; provided further, that no less than \$118,000 shall be expended for the Norfolk district attorney's office	\$1,358,000

Human Resources Division.

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 further, 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 not less than \$50 to be collected from each applicant for a civil service examination; 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 the secretary for 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 further, 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 \$3,846,396

1750-0102 The human resources division may expend not more than \$1,327,500 from revenues collected 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 to, 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 therefore 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 . . . \$102,437

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- 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 \$233,350
- 1750-0201 The human resources division may expend not more than \$250,000 from revenues collected for implementation of the medical and physical fitness standards program established pursuant to sections 61A and 61B of chapter 31 of the General Laws 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 the 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 the program; and provided further, that the division shall report to the house and senate committees on ways and means by February 1, 2006 on the projected costs of the program for fiscal year 2006 \$250,000
- 1750-0300 For the commonwealth's contributions in fiscal year 2006 to health and welfare funds established pursuant to certain collective bargaining agreements; provided, that the 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 \$21,286,962

Operational Services Division.

- 1775-0100 For the operation of the operational services division; provided, that the division shall expend funds for the purpose of achieving savings pursuant to provisions included in this act; provided further, that notwithstanding any general or special law to the contrary, the division of purchased services of the operational services division 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 2006 by increasing the

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final fiscal year 2005 price by the rate of inflation as determined by the division; provided further, that the division shall also adjust prices for Extraordinary Relief, as defined in 808 CMR 1.06(4); provided further, that the department shall accept applications for Program Reconstruction in fiscal year 2006; provided further, that programs for which prices in fiscal year 2005 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2006 the full price calculated for fiscal year 2005 adjusted by the rate of inflation as determined by the division; provided further, that upon the request of a program, the operational services division shall authorize a minimum price for the program to charge out-of-state purchasers; and provided further, that the division shall determine said minimum price for out-of-state purchasers by identifying the most recent price calculated for the program and applying the estimated rates of inflation which are established by December 1 of each year pursuant to section 274 of chapter 110 of the acts of 1993 in a compounded manner for each fiscal year following the most recent calculated price \$2,033,309

1775-0124 The operational services division may expend an amount not to exceed \$300,000 from revenue collected in the recovery of cost-reimbursement and non-reimbursable over billing and recoupment for health and human service agencies and as a result of administrative reviews, 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 revenues collected in excess of \$207,350 \$300,000

1775-0600 The operational services division may expend not more than \$100,000 in revenues 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

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- 1775-0700 The operational services division may expend not more than \$53,000 in revenues collected 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 not more than \$55,000 in revenues 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 not more than \$500,000 in revenues 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 the division shall evaluate the use of technology, the internet, and online auctions to enhance the sales of surplus vehicles and submit a report of its findings to the house and senate committees on ways and means, and the house and senate committees on post audit and oversight on or before October 1, 2005; and provided further, 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 \$500,000

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 16, 2006 with actual and projected savings and expenditures for the audits in the fiscal year ending June 30, 2006; 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 implement this item \$4,994,753
- 1790-0300 The information technology division may expend not more than \$467,837 from revenues collected from the provision of computer resources and services to the general public for the

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costs of the bureau of computer services, including the purchase, lease or rental of telecommunications lines, services and equipment \$467,837

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 further, that the secretary shall file a plan with the house and senate committees on ways and means and to the joint committee on the environment, natural resources and agriculture 90 days prior to the initiation of any proposal or plan that would consolidate any function 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 further, that the plan shall include, but not be limited to the following: (1) an identification of the employees that would be affected by consolidation and the item of appropriation that they are paid from, (2) the savings or efficiencies to be realized, (3) the improvements to the services expected, and (4) the source and amount of funding necessary to accomplish the consolidation; and provided further, that the secretary shall provide a 90 day notice prior to the implementation of any memorandum of understanding, interagency service agreements, or other contacts, or agreements that would en-

able such consolidation of services to take place; provided further, that \$75,000 shall be expended for a study of traffic patterns during rush hour commutes on department of conservation and recreation controlled roadways serving Lynn, Swampscott and Nahant; provided further, that not less than \$40,000 shall be expended for the completion of a comprehensive cost study of a master plan for the maintenance and improvement of all property under the care, custody and control of the division in the West Roxbury section of the city of Boston including such measures but not limited to the planting, pruning, reforestation, enhancement of pedestrian access walks and the removal of leaves, snow and debris in said property; provided further, that not less than \$50,000 shall be transferred to the Boston Harbor Islands Alliance for costs associated with the new visitor contact station known as the Harbor Park Pavilion on Parcel 14 of the Rose Kennedy Greenway; provided further, that funds may be expended for volunteer water monitoring grants; provided further, that not less than \$50,000 shall be expended for new flood insurance rate maps for Salisbury beach; and provided further, that \$150,000 shall be expended for a coastal water quality and natural resource monitoring program in Buzzards Bay administered by the Coalition for Buzzards Bay \$6,309,486

2000-9900 For the office of geographic and environmental information established in section 4B of chapter 21A of the General Laws . . . \$280,944

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, for the purposes of providing those services \$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

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	loan program, research and development, recycling market development and recycling business development, and the operation of the Springfield materials recycling facility; 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; and provided further, that funds may be expended on municipal recycling incentives and equipment grants	\$2,340,647
2010-0200 For	redemption centers; provided, that the department of environmental protection shall expend the funds appropriated in this item 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 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; 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 redemption centers shall be eligible for such funds if they were registered with the commonwealth as of April 1, 2003	\$1,375,000
2020-0100 For	toxics use reduction technical assistance and technology in accordance with chapter 21I of the General Laws	\$1,304,700
2030-1000 For	the operation of the office of environmental law enforcement; provided, that officers shall provide monitoring pursuant to the National Shellfish Sanitation Program; provided further, that the department shall maintain and operate the boat registration and titling offices in Hyannis and Fall River; and provided further, that funds from this item shall not be expended for the purposes of item 2030-1004; and provided further, that \$100,000 shall be expended for the cost of patrols performed by environmental law enforcement officers within properties controlled by the division of state parks and recreation	\$10,013,746

2030-1004 For environmental police private details; provided, that the office may expend revenues of up to \$250,000 collected from the fees charged for private details; 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 \$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 further, that that \$168,000 shall be expended for sediment control in Lake Webster; provided further, that \$25,000 shall be expended to investigate the contamination of the Barnes Aquifer, located in the towns of Southampton and Easthampton and the cities of Holyoke and Westfield, provided further, that the department shall provide an overview of the extent of contamination and estimated cost to provide potable water to all affected residents to the house and senate committees on ways and means no later than March 1, 2006; provided further, that not less than \$100,000 shall be expended by the department of environmental protection to complete the collaborative effort among the executive office of environmental affairs, the department of conservation and recreation, the department of highways and the Massachusetts Historic Commission to complete and publish the final document "Historic Parkways Preservation Treatment Guidelines; and provided further, that enactment

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	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	\$30,159,434
2200-0102	The department of environmental protection may expend an amount not to exceed \$1,200,000 from revenues collected from fees collected from wetland permits; 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 as reported in the state accounting system; provided further, that the department shall submit a report by January 11, 2006 on implementation of the wetlands fee, the amount of the fee increase and the revenue that has been collected; and provided further, that the wetlands fees that were directed into the General Fund shall not be lower than the amount deposited at the end of fiscal year 2004	\$1,200,000
2210-0100	For the implementation and administration of chapter 21I of the General Laws; provided, that the department shall submit a report to the house and senate committees on ways and means not later than February 1, 2006 detailing the status of the department's progress in meeting the statutory and regulatory deadlines associated with chapter 21I and detailing the number of full-time equivalent positions assigned to various implementation requirements of 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	\$1,001,064
2220-2221	For the administration and implementation of the operating permit and compliance program required under the federal Clean Air Act	\$1,882,993
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	\$1,520,085
2260-8870 For the expenses of the hazardous waste cleanup and under-ground storage tank programs, notwithstanding section 323F of chapter 94 of the General Laws and section 4 of chapter 21J of the General Laws	\$14,311,075
2260-8872 For the brownfields site audit program	\$1,749,676
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	\$341,656

Department of Fish and Game

2300-0100 For the office of the commissioner; provided, that the commis-sioner's 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 those 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 the amount and contribution from each division or program shall be determined by the commissioner of fish and game	\$450,001
2300-0101 For a program of riverways protection, restoration and promotion of public access to rivers, including grants to public and nonpublic entities; provided, that the positions funded in this item shall not be subject to chapter 31 of the General Laws	\$450,829
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 2005 for such research; provided further, that \$200,000 shall be expended to continue to operate fish hatcheries in the towns of Montague and Sandwich; provided further, that the department shall expend the amount necessary to restore anadromous fish in the Connecticut and Merrimack river systems; 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; and provided further, that the department of fish and game, the division of fisheries and wildlife and the fisheries and wildlife board shall submit a joint report to the house and senate committees on way and means by September 1, 2005 detailing a 5-year plan for the expenditures of the surplus of funds in the Inland Fish and Game Fund; provided further, that funds may be expended to supplement the natural heritage and endangered species program; provided further, that \$50,000 in matching funds shall be provided to the National Marine Life Center for wetland restoration; provided further, that the executive office shall conduct a study on the severity of invasive weeds in the commonwealth's bodies of natural water; provided further, that said study shall include, but not be limited to the costs associated with full clean-up and eradication, a priority list of projects, an analysis of future environmental concerns stemming from invasive weeds, and plans for communities to prevent future growth of invasive weeds; provided further, that the executive office shall also conduct a study of the advantages and disadvantages of future maintenance of invasive weeds in the state; and provided further, that the executive office shall report to the general court the results and recommendations, if any, together with drafts of legislation necessary to carry out recommendations into effect by filing the same with the clerk of the house of representatives, the house and senate committees on ways and means, and the joint committee on environment, natural resources and agriculture on or before the last Wednesday of February 2006 \$8,700,000

Inland Fisheries and Game Fund	100.0%	
2310-0306 For the hunter safety training program		\$444,327
Inland Fisheries and Game Fund	100.0%	

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2310-0316	For the purpose of land containing wildlife habitat and for the costs of the division of fisheries and wildlife directly related to the administration of the wildlands stamp program pursuant to sections 2A and 2C of chapter 131 of the General Laws; provided, that funds shall not be expended from this item in the AA object class for the compensation of state employees assigned to any item	\$2,000,000
	Inland Fisheries and Game Fund 100.0%	
2310-0317	For the waterfowl management program pursuant to section 11 of chapter 131 of the General Laws	\$85,000
	Inland Fisheries and Game Fund 100.0%	
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 positions funded in this item shall not be subject to chapter 31 of the General Laws	\$598,758
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 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; 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 the Barnstable County Department of Health and Environment; provided further, that \$50,000 shall be expended for the Family Fishing Assistance Center in the city of New Bedford; provided further, that \$50,000 shall be expended for the Family Fishing Assistance Center in the city of Gloucester; 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 2006 shall not be	

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	reduced from fiscal year 2005 except in proportion to adjustments consistent with the department's budget adjustment; and provided further, that funds shall be expended for the School for Marine Science and Technology for research to minimize the economic impact of new fisheries management regulations and shall not be reduced from fiscal year 2005 except in proportion to adjustments consistent with the department's budget adjustment	\$4,010,725
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	\$533,286
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 \$217,989 collected from federal sportfish restoration funds and from the sale of materials which promote marine recreational fishing	\$217,989

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, and 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, and the division of agricultural development and fairs; 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 \$100,000 shall be expended for 4H activities 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

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fair prizes and rehabilitation, including the expenses of the agricultural lands board; provided further, that the department shall, to the extent possible, encourage corporate sponsorships for the purposes of providing agricultural fair prizes; 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 \$3,877,692

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; and provided further, that the department is authorized to assess an administrative charge not to exceed 2 per cent of the total appropriation herein \$6,500,000

2511-3002 For the Integrated Pest Management program \$200,000

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 service agreement with the department of state police to provide police coverage on department of conservation and recreation properties and parkways; provided further, that not less than \$100,000 shall be expended within thirty days of receipt of said funds, for the maintenance of the facility and animal upkeep of the mounted unit in the Blue Hills Reservation, which are not subject to said reimbursement to the department; 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, 2006; 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; provided further, that the department shall, in collaboration with the department of environmental protection and the department of fish and game, establish and maintain a comprehensive inventory of all dams in Massachusetts, and develop a coordinated permitting and regulatory approach to dam removal for stream restoration and public safety; provided further, that no funds shall be expended from this item for personnel overtime costs; provided further, that any employee paid from this item as of August 1, 2004, that was included in the report required from said item in chapter 149 of the acts of 2004, and any employees assigned to that item after August 1, 2004, shall not be paid from any other item of appropriation; provided further, that the department of conservation and recreation shall provide the house and senate committees on ways and means with a 30 day notice before any inter subsidiary transfers or interagency service agreements and the reason for said transfer; provided further, that no funds shall be expended for deputy commissioner positions; provided further, that no funds shall be expended for deputy associate commissioners; provided further, that the department shall maintain and retain all operations, programs, real property and employees related to the Connecticut River Action Program to promote the conservation and protection

of the unique natural resources present in the Connecticut river valley; provided further, that the department of conservation and recreation shall file a report with the house and senate committees on ways and means not later than October 6, 2005 detailing the merger of the former metropolitan district commission with the former department of environmental management into the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) the names, salaries, designated by fiscal year, and the positions of all full time equivalent, personnel that were scheduled to be paid out of item 2800-0100 as of September 1, 2003, March 1, 2004, August 1, 2004, March 1, 2005 and August 1, 2005, (2) the job descriptions, employee name, current job title, and the item of appropriation said employees were assigned to in fiscal years 2002 and 2003 and the item of appropriation that they are currently funded from, (3) a list by object class and object code of all expenditures or allocations from items of appropriations under the executive office of environmental affairs in fiscal years 2004 and 2005 on the commonwealth development coordinating council, (4) a list of all deputy commissioners and deputy associate commissioners, their annual salaries and their duties, (5) the number of full time equivalent positions, that have been eliminated due to said merger, including the name, position, annual salary and documentation that said employee is no longer employed by the department because their position had been eliminated by the merger, (6) any efficiencies that have been achieved from said merger, including a list of internal support services such as finance, human resources, planning, engineering, and management, (7) a list of the staff that were reassigned or terminated because of the merger, (8) details of how the management staff have been reassigned and how they have adopted to said merger, (9) a list of all duplicative efforts and inefficient systems that have been eliminated, (10) a list of any resources that have been shared such as vehicles, heavy equipment, and computer systems, (11) a list of any other efficiencies that have been achieved because of the merger; provided further, that said secretary shall file a report on the number of employees funded through capital authorizations with the house and senate committees on ways

and means not later than October 6, 2005, that shall include, but not be limited to, the following: (1) the number of full time equivalent positions delineated by fiscal year, item of appropriation and position number, job title and job code for that have been funded from capital authorizations for fiscal years 2001 to 2006 inclusive, for every item of appropriation under control of said secretary, (2) every program that has been funded from capital authorizations for fiscal years 2001 to 2006 inclusive delineated by fiscal year, program and item of appropriation and, (3) detail every full time equivalent, so-called and program that has been moved to capital authorizations since fiscal year 2001; and provided further, that notwithstanding any general or special law to the contrary, the department shall enter into a maintenance contract with a suitable vendor for the purposes of daily trash removal on Revere Beach from May 30, 2005, to September 5, 2005, inclusive, and said maintenance contract shall be funded through proceeds received by the city of Revere and the department of conservation and recreation pursuant to section 29 of chapter 236 of the acts of 2002 and section 2 of this act \$5,477,272

2800-0101 For the watershed management program to operate and maintain reservoirs, watershed lands and related infrastructure of the department and the office of water resources in the department of conservation and recreation; provided, 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 shall 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 \$25,000 shall be expended for non-native plant management on Field Pond in Harold Parker State Forest in the town of Andover; provided further, that \$48,000 shall be expended for the flood control activities undertaken by the Thames River Valley communities of Massachusetts in conjunction with the state of Connecticut; provided further, that \$40,000 shall be expended for aquatic weed control treatments in the Upper Mystic Lake;

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provided further, that not less than \$250,000 shall be expended for a comprehensive study, including a management plan, for the entire Taunton River watershed, in accordance with the executive office of environmental affairs "Proposal for Watershed Work Affecting Water Quality-Wastewater Quality-Wastewater Discharges and Stormwater Discharges", dated February 11, 2003, to be conducted, in partnership, by the Old Colony Planning Council, the Southeastern Regional Planning & Economic Development District and the Watershed Access Lab at Bridgewater State College; provided further, that not less than \$100,000 shall be expended for a grant to the town of Hopkinton for a detailed investigation of North Pond Dam/Lake Maspenock Dam located in the towns of Hopkinton, Milford, and Upton to determine the extent of seismic testing necessary at said facility and to perform such seismic testing for liquefaction or other seismotectonic testing as may be recommended by said investigation; and provided further, that the department shall develop and implement a written plan to protect and manage the Plymouth-Carver sole source aquifer in consultation with Plymouth, Carver, Wareham, Plympton, Bourne, Middleborough and Kingston . . . \$1,808,615

2800-0200 For the operation of the Commonwealth Zoological Corporation pursuant to chapter 92B of the General Laws; provided, that \$50,000 shall be expended for the Buttonwood Park Zoo; provided further, that \$50,000 shall be expended for the Forest Park Zoo; provided further, that funds appropriated in this item shall be expended for the purposes of promoting private fundraising, 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 not later than February 1, 2006 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-

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ups, diagnosis and care, emergency veterinary needs, medications and medical supplies, vitamins and diet supplements and Zoo Prem feline diet, to the Trailside Museum and the Chickatawbut Hill Center in the town of Milton \$6,050,000

2800-0401 For a program to provide stormwater management for all properties and roadways under the care, custody and control of the department of conservation and recreation; provided, that the department shall develop and implement a stormwater management program in compliance with federal and state stormwater management requirements; provided further, that the department shall inventory all existing stormwater infrastructure, assess its current stormwater practices, analyze long term capital and operational needs, and develop a stormwater management plan to comply with federal and state regulatory requirements; and provided further, that in order to protect public safety and to protect water resources for water supply, recreational and ecosystem uses, the department will immediately implement interim stormwater management practices including but not limited to street sweeping, inspection and cleaning of catch basins, and emergency repairs to roadway drainage \$500,000

2800-0500 For the freshwater and saltwater beaches under the control of the department of conservation and recreation; provided, that all beaches shall remain open and staffed from Memorial Day through Labor Day; provided further, that the beaches shall have their full amount of required maintenance and upkeep; provided further, that the department shall file a report with the house and senate committees on ways and means not later than November 1, 2005 that shall include, but not be limited to, the following: (1) the amount of funding provided to every beach under the control of the department in fiscal years 2004 and 2005; (2) a breakdown of how the funds were spent for every beach and the services that were provided; (3) the items of appropriation used to provide funding; (4) the amount of funding to be provided for every beach in fiscal year 2006 from this item; and (5) a list of the services or materials for each beach that will be provided from this item; provided further, that not less than \$35,000 shall be expended for the cleanup of *Pilayella* algae on the Nahant Beach Reservation;

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	and provided further, that not less than \$250,000 shall be appropriated to the Middlesex Canal Commission	\$1,035,000
2800-0600	For the pools and spray pools under the control of the department of conservation and recreation; provided, that all pools and spray pools shall remain open and staffed from Memorial Day through Labor Day; provided further, that the pools and spray pools shall have their full amount of required maintenance and upkeep; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than November 1, 2005 that shall include, but not be limited to, the following: (1) the amount of funding provided to every pool under the control of the department in fiscal years 2004 and 2005; (2) a breakdown of how the funds were spent for every pool and the services that were provided; (3) the items of appropriation used to provide funding; (4) the amount of funding to be provided for every pool in fiscal year 2006 from this item; and (5) a list of the services or materials for each pool that will be provided from this item	\$750,000
2800-9004	For certain payments for the maintenance and use of the Trillium Museum and the Chickatawbut Hill center	\$375,000
2810-0100	For the operations of the division of state parks and recreation; provided, that funds appropriated in this item 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 the department may issue grants to public and nonpublic entities from this item; provided further, that \$100,000 shall be expended for the Schooner Ernestina Commission; provided further, that \$25,000 shall be expended for a grant to the Sutton Fire and Rescue department for park user safety equipment at the Purgatory Chasm State Reservation in the town of Sutton; and provided further, that the level of funding for the beaches and pools from this item in fiscal year 2006 shall not be reduced from fiscal year 2005	\$19,103,810
2810-0200	For summer employment programs at department of conservation	

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- and recreation facilities; provided, that the programs shall include peer-led youth recreation and interpretive programs, a youth all-star band, and a park repair and improvement program by skilled and unskilled laborers; and provided further, that the programs shall provide opportunities for underprivileged populations, especially in economic development areas \$2,000,000
- 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 2005 shall continue to receive such benefits in fiscal year 2006 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 in this item; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this item are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning not earlier than April 1 and ending not later than November 30, or beginning not earlier than September 1 and ending not later than April 30; and provided further, that notwithstanding said section 1 of said chapter 31, seasonal positions funded by this item shall not be filled by an incumbent for more than 8 months within a 12-month period \$5,567,735
- 2810-2040 The division of state parks and recreation may expend not more than \$4,454,826 from revenue collected from fees charged by the division, 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 and for the personnel costs of seasonal employees; provided, that no funds from this item shall be expended for the costs of full-time equivalent personnel; provided further, that 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

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for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; provided further, that no 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 required by section 1B; provided further, that the comptroller shall notify 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 that variance for expenditures made; and provided further, that the division may issue grants to public and nonpublic entities from this item \$4,454,826

2820-0100 For the administration, operation and maintenance of the division of urban parks and recreation, including 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, flood control activities of the division, purchase of all necessary supplies and related equipment, and the civilianization of crossing guards located at division intersections where state police previously performed such duties; 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; provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that not less than \$3,902 shall be expended on additional school crossing guards for the corner of Mystic avenue and Shore drive in the city of Somerville; provided further, that the school crossing guards for the corner of Mystic avenue and Shore drive in the city of Somerville shall be named the Senator Charles E. Shannon Crossing Guard Corps; provided further, that not less than \$380,000 shall be expended for the purposes of installing lighting at the Stadium at Dilboy field along state highway route 16 in the city of Somerville, pursuant to the construction and renovation project authorized by chapter 352 of the acts of 2004; provided further, that \$45,000 shall be expended on

the maintenance of Red Rock park on Lynn Shore drive, in the city of Lynn; provided further, that \$60,000 shall be expended for funding of current employees of the bureau of forest fire control under their new reclassification firefighter services; provided further, that \$225,000 shall be expended for maintenance and infrastructure repair of the southwest corridor park; provided further, that \$50,000 shall be expended for flood mitigation at Fellsmere pond; provided further, that not less than \$50,000 shall be expended for the purposes of trash removal on Revere beach between May 30th and September 5th, which shall match proceeds generated pursuant to section 29 of chapter 236 of the acts of 2002; provided further, that \$297,000 shall be expended for the James Michael Curley Recreation Center in the city of Boston;; provided further, that \$40,000 shall be provided for a traffic study administered by the commissioner of the department of conservation and recreation shall be commissioned to improve public safety along Nonantum road and adjacent parklands, including developing alternatives for narrowing the parkway cross-section, alternatives for safety improvements at the intersections of Charlesbank road and Maple street, alternatives for landscape, pathway, lighting, and drainage improvements, and a schedule and cost estimate for the design and construction of the recommendation; provided further, that the commissioner shall report progress to the Stewardship Council at each meeting until the study reaches completion; provided further, that the commissioner shall ensure public input through two public hearings held in Newton and Watertown during the study - one prior to the initial recommendation, one after release of the initial recommendation but prior to the final recommendation; provided further, that the commissioner shall ensure public awareness by publishing quarterly progress reports on the department of conservation and recreation website's press release section; and provided further, that upon completion of the study, the commissioner shall deliver the recommendation of the study along with a report addressing public opinion not reflected in the recommendation to the Stewardship Council provided further, that the commissioner shall develop a capital project plan to enact the recommendation of the traffic study, including design and implementation; provided further, that

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\$95,000 shall be allocated for a private contractor to maintain the department of conservation and recreation Lynn Shore Drive facility; provided further, that the commissioner shall submit this plan for the next fiscal year budget following the completion of the traffic study; provided further, that \$250,000 shall be expended for the creation and maintenance of a linked trail system for local and state parks along the Back River in the towns of Weymouth and Hingham to complete the project created in chapter 149 of the acts of 2004; provided further, that not less than \$250,000 shall be expended for Camp Meigs located in the Readville section of the city of Boston; provided further, that not less than \$250,000 shall be expended for a study on the Neponset river master plan; provided further, that the level of funding for the beaches and pools from this item in fiscal year 2006 shall not be reduced from fiscal year 2005 \$23,608,929

2820-0101 For the costs associated with the department's urban park rangers specific to the security of the state house; provided, that the commissioner shall collaborate and coordinate with the legislature's joint committee on rules on the development of a plan of security for the state house and shall file the report to the house and senate committees on ways and means not later than December 15, 2005; and provided further, that funds appropriated in this item shall only be expended for the costs of security and urban park rangers at the state house . . . \$1,750,000

2820-0200 For seasonal hires of the division of urban parks and recreation; provided, that no funds 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 item are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning not earlier than April 1 and ending not later than November 30, or beginning not earlier than September 1 and ending not later than April 30; and provided further, that notwithstanding said section 1 of said chapter 31, seasonal positions funded by this item shall not be filled by an incumbent for more than 8 months within a 12-month period . . . \$2,991,820

2820-1000 The division of urban parks and recreation may expend not more than \$200,000 from revenue collected pursuant to section 34B of chapter 92 of the General Laws \$200,000

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2820-1001	The division of urban parks and recreation may expend not more than \$50,000 from revenue collected 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 nothing in this item shall 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 maintaining the parkways within the division of urban parks and recreation, including the costs of personnel and snow and ice removal expenses; provided, that the department of conservation and recreation shall take all measures to ensure that the department's snow and ice control efforts are efficient and cost effective; provided further, that the secretary of environmental affairs shall submit to the house and senate committees on post audit and oversight and the house and senate committees on ways and means a report detailing a snow emergency plan for roads, bridges and sidewalks under the care of the department of conservation and recreation by October 1, 2005; provided further, that the secretary of environmental affairs shall submit to the house and senate committees on post audit and oversight and the house and senate committees on ways and means a report not later than September 1, 2005 which shall include, but not be limited to, the following: (a) a list of amounts paid from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003, 2004 and 2005, and (b) 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	\$1,547,434

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- 2820-3001 The division of urban parks and recreation may expend not more than \$1,000,000 from revenue collected from skating rink fees and rentals for the operation and maintenance, including personnel costs, of 4 rinks between September 1, 2005 and April 30, 2006 for an expanded and extended rink season; provided, that when assigning time for the use of its rinks, the division shall give priority to those which qualify under applicable state and federal law as nonprofit 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 not more than \$1,100,000 from revenue 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 not earlier than April 1 and ending not 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 not more than \$700,000 from revenue 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 shall be positions requiring the services of an incumbent, on either a full-time or less than a full-time basis beginning not earlier than April 1 and ending not 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 object class; provided further, that the department of conservation and recreation shall take all measures to further ensure that said department's street lighting efforts are efficient and cost effective; provided further, that said department shall implement a plan to achieve efficiencies and reduce said lighting costs; and provided further, that said department shall file a report with the house and senate committees on ways and means not later than September 1, 2005 on measures taken to ensure efficiency and cost effectiveness of their street lighting program that shall include, but not be limited to, the following: (1) all efforts taken by said department to reduce street lighting costs in fiscal years 2002, 2003, 2004 and 2005, and (2) efforts to reduce the amount paid for electricity through bulk purchasing agreements, (3) a long range plan on energy savings initiatives\$2,606,651

Department of Early Education and Care

3000-1000 For the administration of the department of early education and care and the costs of field operations and licensing provided through the department; provided, that funds from this item shall be expended to develop an implementation plan for a workforce development system in collaboration with the board and chancellor of higher education, pursuant to section 5 of chapter 15D of the General Laws; provided further, that funds from this item shall be expended on the development and piloting of a kindergarten readiness assessment system that is educationally sound; provided further, that funds from this item shall be expended on the development of a comprehensive evaluation system for all early education and care programs in the commonwealth; provided further, that, not later than November 30, 2005, the department shall report to the secretary of administration and finance, the chairpersons of the joint committee on education, and the chairpersons of the house and senate ways and means committee on the information technology needs of the department, including the cost of a comprehensive database of early childhood educators and providers for the purpose of enhancing the workforce development system, and a database

of children both waiting for and receiving early education and care services which is compatible with the SIMS database, and any other relevant database at the department of education or the executive office of health and human services; provided further, that the report shall also include an analysis of the costs associated with the development of a comprehensive and scientifically valid longitudinal study of the effectiveness of various early education and care programs and services, including but not limited to, comprehensive and consistent pre-school services provided to children from the age of two years and nine months through entrance into kindergarten; provided further, that the department shall report quarterly to the joint committee on education, the joint committee on children and families, 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 early education and care programs and services; provided further, that notwithstanding chapter 66A of the General Laws to the contrary, the department of early education and care, the lead agencies of community partnership councils, the child care resource and referral agencies, the department of education, the department of transitional assistance, the department of social services, and the department of public health may share with each other personal data regarding the parents and children who receive services provided under early education and care programs administered by the commonwealth for waitlist management, program implementation and evaluation, reporting, and policy development purposes; provided further, that the commissioner of the department of early education and care may transfer funds between items 3000-1000, 3000-2000, 3000-4000, 3000-4050, 3000-5000, 3000-7050, 3000-7060, and 3000-7070, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; provided further, that no more than 5 percent of any item may be transferred in fiscal year 2006; and provided further, that the department shall consult with the department of education and the executive office of health

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	and human services to ensure continuity in the grant process	\$9,570,077
3000-2000	For the regional administration of early education and care programs and services and related early education and care activities; provided, that the activities shall include, but not be limited to, voucher management, regional 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; provided further, that the department shall administer the child care resource and referral system through the regional offices funded in this item; provided further, that the regional offices shall collaborate with the board and commissioner of early education and care to produce the workforce development plan required under section 5 of chapter 15D of the General Laws; and provided further, that not later than February 15, 2006, the department shall issue a report to the secretary of administration and finance, the chairpersons of the house and senate committees on ways and means, the house and senate chairpersons of the education committee, and the house and senate chairpersons of the joint committee on children and families, detailing the budgets of each regional office, with a breakdown, by regional office, of the amounts spent on administration, voucher and contract management, data and technology purchase to support the data analysis being done by said offices, professional and workforce development, and such other categories of expenditure as the commissioner may feel are appropriate	\$10,263,252
3000-2050	For the administration of the Children's Trust Fund; provided, that notwithstanding any general or special law to the contrary, the department of early education and care shall collaborate with Children's Trust Fund on the implementation of section 202 of chapter 6 of the General Laws, but shall not exercise any supervision or control with respect to the board	\$882,307
3000-3050	For supportive child care associated with the family stabilization program; provided, that, notwithstanding the provisions of any general or special law to the contrary, services funded by this item shall be provided by the department of early education and care established pursuant to chapter 15D of the General Laws; and provided further, that funds from this item	

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shall only be expended for child care costs of children with active cases at the department of social services \$49,077,019

3000-4000 For preschool programs and services provided to children from the age of 2 years and 9 months until they are kindergarten eligible, through a mixed system of service delivery including cities, towns, regional school districts, educational collaboratives, head start programs, and licensed day care providers, 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 1 lead agency in fiscal year 1995, such lead agency shall serve as lead agency to submit proposals pursuant to 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 provide services to the children of working parents; provided further, that funds appropriated in item 7030-1000 prior to 1994 shall continue to be used for at risk children and special education purposes; provided further, that in allocating the funds and evaluating grant applications, the board of early education and care shall give priority consideration to 3 and 4-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 item 7030-1000 of chapter 60 shall be for full-day, full-year care that meets the needs of working parents; provided further, that councils shall give priority in awarding expansion slots to children on the waitlist formerly maintained by the office of child care services; provided further, that these children shall retain priority status for future services available through the department upon attaining the age of 5, notwithstanding the receipt of services funded through this item; provided further, that eligibility standards

for said services shall be the same as those used by the department of education in fiscal year 2005; provided further, that no funds shall be expended from this item for administrative costs of the department of early education and care; provided further, that funds may be expended for administrative costs of local councils; and provided further, that recipients of grants distributed from this item shall not expend more than 8 per cent of the grants for administrative costs as defined by the department of education in fiscal year 2005 \$68,700,570

3000-4050 For child care vouchers and contracted child care programs for low-income families; provided, that the department shall issue monthly reports detailing the number and average cost of voucher and contracted child care slots funded from this item and item 3000-3050 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 from this item; 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 this item; provided further, that the department shall report quarterly to the joint committee on education, the joint committee on children and families, the house and senate committees on ways and means and the secretary of administration and finance on the error rate, if any, in income-eligibility determinations calculated by the post audit reviews; provided further, that notwithstanding any language to the contrary, funding for child care shall be provided as a priority, to recipients of benefits under the employment services program or any successor program, to recipients of benefits under the program of transitional aid to families with dependent children, former recipients of transitional aid who are employed during the year after termination of benefits, former recipients of transitional aid participating in education or training programs authorized by department of transitional assistance regulations, parents under the age of 18 currently enrolled in a job training program who would qualify for benefits under chapter 118 of the General Laws, said section 110 of said chapter 5 or any other applicable law

or regulation, but for the deeming of grandparents' income, and for former recipients of transitional aid to families with dependent children who are employed or in an authorized period of job search as of the expiration of the transitional year, and require post-transitional child care vouchers; provided further, that recipients of transitional aid shall not be charged fees for child care provided under this item; provided further, that not less 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 income eligible programs shall not include the employment services child care program, transitional child care programs, or post-transitional child care programs; provided further, that not less than \$138,353,258 shall be expended for income-eligible child care programs in fiscal year 2006; 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 per child per hour shall be paid for such services; provided further, that child care slots funded from this item shall be distributed geographically 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 \$292,473,570

3000-5000 For grants to head start programs; provided, that, notwithstanding the provisions of any general or special law to the contrary, programs and services eligible for funding through this item

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	shall receive such funding only after application to, and approval by, the department of early education and care established pursuant to chapter 15D of the General Laws	\$7,500,000
3000-6000 For	early education and care quality expenditures; provided, that, notwithstanding the provisions of any general or special law to the contrary, services funded by this item shall be provided by the department of early education and care established pursuant to chapter 15D of the General Laws; provided, that not less than \$1,321,145 shall be expended for activities to increase the supply of quality early education and care for infants and toddlers; provided further, that not less than \$1,000,000 shall be expended for resource and referral services provided through item 3000-2000; provided further, that not less than \$234,248 shall be expended for 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; provided further, that no funds shall be expended for the DD object class expenses of the department, out of state travel, bottled water, chargebacks, office equipment, prior year deficiencies, or the Virtual Gateway system; and provided further, that no funds shall be expended, obligated or transferred from this item prior to the submission of written certification by the commissioner to the house and senate committees on ways and means that all planned expenditures and allocations from this item shall have no fiscal impact beyond fiscal year 2006	\$4,120,403
3000-7000 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 the department shall collaborate with the Children's Trust Fund, whenever feasible and appropriate, to coordinate services provided through this item with services provided through items 3000-7050, 3000-7060 and 3000-7070, in order to ensure that parents receiving services through this item are aware of all opportunities available to them and their children through the department; provided further, 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	\$12,241,352

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- 3000-7050 For the Mass Family Networks program; provided, that, notwithstanding the provisions of any general or special law to the contrary, programs and services eligible for funding through this item shall receive such funding only after application to, and approval by, the department of early education and care established pursuant to chapter 15D of the General Laws; and provided further, that the department shall, to the maximum extent feasible, coordinate services provided through this item with services provided through items 3000-7000 and 3000-7060 and 3000-7070, in order to ensure that parents receiving services through this item are aware of all opportunities available to them and their children through the department . . . \$5,295,694
- 3000-7060 For grants for home-based parenting and family literacy program known as the Parent-Child Home Program; provided, that notwithstanding the provisions of any general or special law to the contrary, programs and services eligible for funding through this item shall receive such funding only after application to, and approval by, the department of early education and care established pursuant to chapter 15D of the General Laws; provided further, 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 the home visiting program to serve area low income families; provided further, that the department shall, to the maximum extent feasible, coordinate services provided through this item with services provided through items 3000-7000, 3000-7050 and 3000-7070, in order to ensure that parents receiving services through this item are aware of all opportunities available to them and their children through the department; 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 \$2,000,000
- 3000-7070 For matching grants to fund the Reach Out and Read program, to provide books to at-risk children through book distribution

programs established in community health centers, medical practices and hospitals for at-risk children; provided, that the funds distributed through this program shall be contingent upon a match of not less than \$1 in private or corporate contributions for every \$1 in state funding distributed through the grant program; and provided further, that the department shall, to the maximum extent feasible, coordinate services provided through this item with services provided through items 3000-7000, 3000-7050 and 3000-7060 in order to ensure that parents receiving services through this item are aware of all opportunities available to them and their children through the department \$500,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Office of the Secretary

4000-0112 For matching grants to boys' and girls' clubs, YMCA and YWCA organizations, nonprofit community centers, and youth development programs; provided, that the secretary of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization; provided further, that not less than \$2,000,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs; provided further, that not less than \$80,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less 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 less than \$50,000 be expended for programs and improvements at the Northeast Family YMCA; provided further, that not less than \$50,000 be expended for programs and improvements at the Haverhill YWCA; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA including, but not limited to, capital projects in the town of Norwood, the West Roxbury section of Boston, East Boston, Woburn, Bedford and in other cities and towns within the greater Boston area; provided fur-

ther, that not less than \$100,000 shall be expended for programs and improvements to the YWCA of Newburyport; provided further, that not less than \$50,000 shall be expended for the Project Adventure Youth Leadership Program administered by Family Services Incorporated of Lawrence; provided further, that not less than \$50,000 shall be expended for programs at the Girls Incorporated of Holyoke drop-in center; provided further, that not less than \$25,000 shall be expended for programs at the Fishing Academy, Incorporated; provided further, that not less than \$225,000 shall be expended for Camp Coca Cola New England to provide youth development services with an emphasis on leadership training and community service; provided further, that no less than \$125,000 shall be expended for the Greater Worcester YMCA Youth Programs; provided further, that not less than \$50,000 shall be expended for the Chelsea YMCA for building rehabilitation purposes; provided further, that not less than \$40,000 shall be expended for the Saugus YMCA; provided further, that not less than \$50,000 shall be expended to the Franklin Community Action Corporation for youth service; provided further, that not less than \$150,000 shall be expended for nonprofit Youth Services in Andover; provided further, that not less than \$25,000 shall be expended for the Southwick Recreation Center, Inc.; and provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amount distributed in fiscal year 2006 by March 1, 2006 \$3,610,000

4000-0300 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 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 said islands; 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 funds appropriated herein shall be expended 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 further, 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 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 autho-

rized by chapter 118E of the General Laws 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 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 committees 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 may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the executive office 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 notwithstanding any general or special law to the contrary, for fiscal year 2006 the definition of a rural hospital shall mean an acute care hospital as defined under section twenty-five B of chapter 111 of the General Laws and licensed under said chapter 111, which: (1) has been designated by the executive office as a rural hospital based on

bed size, city or town population, and population density of the city, town, service area or county as determined by the executive office through regulation; or (2) is a hospital currently designated as a Critical Access Hospital by the Federal Department of Health and Human Services in accordance with federal regulations and state requirements; 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 a hospital with a unit designated as a pediatric specialty unit, or which maintains a level 1 burn and trauma center for pediatrics as defined in this item shall be exempt from the inpatient and outpatient efficiency standards being applied to their rate methodology; provided further, that notwithstanding section 1 of chapter 118G of the General Laws or any general or special law to the contrary, for fiscal year 2006 the definition of a "pediatric specialty unit" shall mean a level 1 burn and trauma center for pediatrics or a pediatric unit of an acute care hospital in which the ratio of licensed pediatric beds to total licensed hospital beds as of July 1, 1994, exceeded 0.20; provided further, that in calculating that ratio, licensed pediatric beds shall include the total of all pediatric service beds, and the total of all licensed hospital beds shall include

the total of all licensed acute care hospital beds, consistent with Medicare's acute care hospital reimbursement methodology as put forth in the Provider Reimbursement Manual Part 1, Section 2405.3G; 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 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; provided further, that in fiscal year 2006, the executive office of health and human services shall include within its MassHealth covered services comprehensive dental benefits which were in effect on January 1, 2002, for pregnant women and mothers until their youngest child reaches the age of 3; provided further, that in fiscal year 2006, the executive office of health and human services shall include within its MassHealth covered services smoking and tobacco use cessation treatment and information for pregnant women and mothers until their youngest child reaches the age of 3; provided further, that smoking and tobacco use cessation treatment and information benefits shall include nicotine replacement therapy, other evidence-based pharmacologic aids to quitting smoking, and accompanying counseling by a physician, certified tobacco use cessation counselor, or other qualified clinician; provided further, that the executive office shall take all necessary steps to ensure that the comprehensive dental benefits and smoking and tobacco cessation treatment and information benefits shall be eligible for federal reimbursement; and provided further, that the executive office shall promulgate regulations establishing the smoking and tobacco use cessation treatment and information benefit program; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same

payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003, except as provided in item 4000-1401; provided further, that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that in calculating rates of payment for children enrolled in MassHealth receiving inpatient services at acute care pediatric hospitals and pediatric specialty units as defined in section 1 of chapter 118G of the General Laws, the executive office shall make a supplemental payment, if necessary, sufficient to assure that payment for inpatient cases with a case mix acuity greater than 5.0 shall be at least equal to 85% of the expenses incurred in providing services to those children; provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2005; provided further, that said executive office in fiscal year 2006 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members; provided further, that not later than September 1, 2005, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing reasons for increases in chargebacks between fiscal years 2005 and 2006 for all 17 executive office cluster agencies including, but not limited to, service rates used in determining each charge type, number of staff hours per agency per service type, and a subsequent explanation as to how the increases result in a cost savings for each agency and the commonwealth, and why there is no subsequent decrease in either the cluster agency's or the executive office's administrative costs; and provided further, that the report shall provide a detailed explanation and crosswalk of the transition of both funding and staff members from each agency to the executive office in fiscal years 2005 and 2006 for consolidation of centralized services; provided further, that the executive office, in consultation with the division of health care finance and policy, shall submit a report on the implementation of the "virtual gateway" project;

provided further, that the report shall include, but not be limited to: (i) a list of providers that used the virtual gateway system in hospital fiscal year 2005; (ii) a list of providers who are scheduled to receive the virtual gateway system in hospital fiscal year 2006; (iii) an assessment of the current capability of the virtual gateway to screen eligibility for multiple health and human services benefits; (iv) the number of applications for MassHealth filed through the virtual gateway delineated by provider and MassHealth program; (v) the approval rate of MassHealth applications filed through the virtual gateway compared to applications filed through other means and the impact on overall MassHealth enrollment; (vi) the average time required for approval of applications filed through the virtual gateway; (vii) an assessment of the impact of the virtual gateway system on free care costs at participating providers compared to non-participating providers in hospital fiscal year 2005; (viii) a survey of participating hospitals measuring the decreased or increased administrative costs for hospital staff; and (ix) the total state cost of the virtual gateway project in state fiscal years 2005 and 2006 and the amount of expected federal participation received for those expenditures; provided further, that the executive office shall submit its report to the chair of the house and senate committees on ways and means, and the chair of the joint committee on health care financing not later than February 1, 2006; provided further, that in determining the inpatient and outpatient nonacute hospital rates of payment, the executive office and its contractors shall utilize a payment methodology so that rates of payment are not less than those in effect during fiscal year 2005; and provided further, that notwithstanding any general or special law to the contrary, the executive office shall adopt regulations which restrict eligibility and covered services only after public notice and hearing \$126,159,490

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

4000-0320 The executive office may expend an amount not to exceed \$291,000,000 from the monies received from recoveries of any current or 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 further, that additional categories of recoveries and collections, including the balance of any personal needs accounts collected from nursing and other medical institutions upon a recipient's death and held by the executive office for more than 3 years, may, notwithstanding any general or special law to the contrary, be credited to this item; 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 executive office 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 \$291,000,000

4000-0351 For the operations of the office of residential placement and licensure \$737,593

4000-0352 For MassHealth enrollment outreach grants to public and private nonprofit groups to be administered by the executive office; provided, that the executive office shall provide grants for continuation of the Covering Kids and Families program, including grants to coalitions receiving Covering Kids and Families grants; and provided further, that the executive office shall provide grants for the Western Massachusetts Health Access Network, of 13 community-based organizations to provide enrollment assistance and outreach for MassHealth and other publicly-funded health coverage programs; provided further, that the secretary shall report to

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the house and senate committees on ways and means on the exact amounts distributed in fiscal year 2006 by March 1, 2006 and the extent to which any portion of resulting expenditures are eligible for federal reimbursement \$500,000

4000-0430 For the commonhealth 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 executive office shall maximize federal reimbursement for state expenditures made on behalf of such adults and children; provided further, that children shall be determined eligible for the medical care and assistance if they meet the disability standards as defined by the executive office, which standards shall be no more restrictive than the standards in effect on July 1, 1996; and provided further, that the executive office shall process commonhealth applications within 45 days of receipt of a completed application or within 90 days if a determination of disability is required \$84,696,753

4000-0500 For health care services provided to medical assistance recipients under the executive office's primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the executive office; 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; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper payment limit cap; provided further, that the secretary shall submit a report to the house and senate committees on ways and means which shall include MassHealth enrollment in a managed care organization as of July 1, 2005 compared to said enrollment on December 1, 2005; provided further, that said report shall be submitted not

later than December 15, 2005; provided further, that the secretary of health and human services and the commissioner of mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the executive office 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 in conjunction with the new medicaid management information system project, said executive office study the feasibility of modifying its claim payment system, in collaboration with the MassHealth behavioral health contractor, to routinely process for payment valid claims for medically necessary covered medical services to eligible recipients with psychiatric and substance abuse diagnoses on a timely basis in an effort to avoid delay and expenses incurred by lengthy appeals processes; provided further, that said secretary shall report to the house and senate committee on ways and means not later than February 1, 2006 the results of said study, any proposed modifications to said payment system, and a timeline of steps to be taken to implement said modifications; provided further, that not less than \$12,000,000 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; and provided further, that \$11,700,000 shall be expended on disproportionate share payments to high public payer hospitals \$2,102,005,676

Department of Elder Affairs Office of the Secretary

4000-0600 For health care services provided to medical assistance recipients under the department'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 a demonstration project known as the "community choices" initiative; provided further, that under the demonstration, eligible MassHealth enrollees in the section 2176 elder care waiver 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 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 department shall establish a funding level that, on a monthly average basis, is equal to 50 per cent of the median monthly per capita expenditure made by the department 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 executive office 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 executive office of health and human services 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 department and the executive office; provided further, that the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the projected costs and the number of individuals served by the "community choices" initiative in

fiscal year 2006 delineated by federal poverty level; provided further, that the report shall be submitted not later than February 1, 2006; provided further, that in the event the division of health care finance and policy conducts or utilizes an audit of nursing facilities' calendar year 2002 base year costs for the purpose of reducing rates below levels that would be in effect in the absence of the audit, the division shall disallow no more than \$22,000,000 in the aggregate in fiscal year 2006 rates; provided further, that notwithstanding any general or special law to the contrary, the regulations, criteria and standards for determining admission to and continued stay in a nursing home in fiscal year 2006 shall not be more restrictive than those regulations, criteria and standards in effect on January 1, 2004 until the executive office of health and human services and the executive office of elder affairs submit a multi-year plan to the house and senate committees on ways and means and the joint committee on health care financing detailing the suggested timeline for phasing in changes to nursing home clinical criteria, provided that these changes shall not adversely affect current nursing home residents and shall not jeopardize the effectiveness of the 2176 home and community based waiver; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or nonacute chronic disease hospital that provides kosher food to its residents, the department, in consultation with the division, in recognition of the unique special innovative program status granted by the executive office, shall for any nursing home or nonacute chronic disease hospital that provides kosher food to its residents, establish the lower of (1) actual increased cost; or (2) up to a \$5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food and shall apply such increase effective July 1, 2003; 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 effective July 1, 2005, nursing facility Medicaid rates shall be adjusted by no less than \$43,500,000 in the aggregate for the purpose of funding inflationary cost; provided further, that the department shall in correlation with the senior care options program explore options for enrolling the senior care

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population into managed care programs through federal waivers or other necessary means; provided further, that the secretary of elder affairs may transfer not more than 3 per cent of funds appropriated in this item to item 4000-0620; provided further, that the executive office shall provide written notice to the house and senate committees on ways and means not less than 30 days prior to any transfer; provided further, that notwithstanding any general or special law to the contrary, medicaid rates paid by the commonwealth through the office of medicaid or its third party agents to cover the cost of care provided by the only mentally involved/medically involved (MIMI) nursing facility in the commonwealth shall be sufficient to cover the cost of care provided by such a facility, and in no event shall be less than 15 per cent more than the fiscal year 2005 medicaid reimbursement per patient day received by such a facility; provided further, that not less than \$2,000,000 shall be expended for the purpose of a housing with services demonstration project known as the "Caring Homes" initiative designed to delay or prevent nursing home placement by providing caregiving services to an elder; and provided further, that under said demonstration project, eligible MassHealth enrollees shall be able to live in the home of an individual or relative, with the exception of spouses and dependent children, to provide for their long term supports, pursuant to regulations promulgated by said executive office

.....	\$1,890,925,627
4000-0620 For the senior care options program; provided, that the secretary of elder affairs may transfer not more than 15 per cent of funds appropriated in this item to item 4000-0600; and provided further, that the department shall provide written notice to the house and senate committees on ways and means not less than 30 days prior to any transfer	\$67,998,937
4000-0700 For health care services provided to medical assistance recipients under the executive office's health care indemnity/third party liability plan and medical assistance recipients not otherwise covered under the executive office'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; provided further, that expenditures from this item shall be made only for the purposes expressly stated in this item; provided further, that notwithstanding the foregoing, funds may be expended from this item for the purchase of third party insurance including, but not limited to, Medicare for any medical assistance recipient including, but not limited to, seniors; provided further, that not more than \$10,000,000 may be expended for activities relating to disability determinations or utilization management and review, including patient screenings and evaluations, regardless of whether such activities are performed by a state agency, contractor, agent or provider; and provided further, that the executive office shall submit a report to the executive office of administration and finance and the house and senate committees on ways and means not later than March 1, 2006 detailing the activities described in the preceding proviso to be expended from this item during fiscal year 2006 \$1,586,991,439

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 clause (c) of said subsection (2) of said section 9A of said chapter 118E whose family incomes, as determined by the executive office, exceeds 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 Title XIX and Title XXI of the Federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund \$391,509,801
Children's and Seniors' Health
Care Assistance Fund 100.0%

4000-0870 For health care services provided to adults participating in the medical assistance program pursuant to clause (g) of subsection (2) of section 9A of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to such recipients in prior fiscal years \$61,326,314

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- 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 executive office shall provide benefits to women whose income, as determined by the executive office, does not exceed 250 per cent of the federal poverty level, subject to continued federal approval; 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, the executive office 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 4570-1512 of section 2D; provided further, that the executive office shall continue to seek federal approval for the implementation of a cost sharing system, including co-payments and sliding scale premiums for women whose annual income is between 133 per cent and 250 per cent of the federal poverty level; and provided further, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years \$5,170,243
- 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 executive office 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 Title XXI of the Federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund \$27,509,997
- Children's and Seniors' Health
Care Assistance Fund 100.0%
- 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

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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 . . . \$36,746,765

Children's and Seniors' Health

Care Assistance Fund 100.0%

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 executive office of health and human services shall directly market the program to private human service providers that deliver human and social services under contract with departments within the executive office and the department of elder affairs for the purpose of mitigating health insurance costs to the employers and their employees; provided further, that the executive office shall report quarterly 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, 2-person family and family subsidies; provided further, that the executive office 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 \$7,432,668

Children's and Seniors' Health

Care Assistance Fund 100.0%

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 10E of chapter 118E of the General Laws; provided further, that the executive office shall report to the house and senate committees on ways and means on the population served by the program delineated by

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the federal poverty level; provided further, that the report shall be submitted not later than February 1, 2006; and provided further, that funds may be expended from this item for health care services provided to these persons in prior fiscal years \$15,991,921

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 executive office shall pre-screen enrollees and applicants for medicaid eligibility; provided further, that no applicant shall be enrolled in the program until the 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 executive office shall maximize federal reimbursements for state expenditures made on behalf of the 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 before the projected exhaustion of funding; provided further, that the executive office shall expend all necessary funds from this item to ensure the provision of the maximum benefit levels for this program, as authorized by section 10F of chapter 118E of the General Laws; provided further, that the maximum benefit levels for this program shall be made available only to those children who have been determined by the executive office to be ineligible for MassHealth benefits; provided further, that notwithstanding subsection (d) of section 10F of chapter 118E of the General Laws, or any general or special law to the contrary, premiums for this program shall be collected according to the following eligibility categories: (1) enrollees in households earning less than 200 per cent of the federal poverty level shall not be responsible for contributing to program premium costs; (2) enrollees in households earning between 200 per cent and 300 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 executive office; provided, that additional contributions shall not be re-

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quired for any enrollee after the third enrollee in such a household; (3) enrollees in households earning between 301 per cent and 400 per cent of the federal poverty level, inclusive, shall contribute not less than 85 per cent and not more than 90 per cent of the monthly premium cost according to a sliding scale established by the executive office; provided, that additional contributions shall not be required for any enrollee after the first enrollee in such a household; and (4) enrollees in households earning more than 400 per cent of the federal poverty level shall pay not more than the full premium cost of the program; provided further, that the secretary of shall certify quarterly in writing to the house and senate committees on ways and means that premiums established pursuant to the fourth paragraph of section 10F of chapter 118E have been paid by all enrollees for whom premiums are applicable; and provided further, that funds may be expended from this item for health care services provided to these persons in prior fiscal years \$21,078,379

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 immunodeficiency virus with incomes up to 200 per cent of the federal poverty level; provided, that funds may be expended from this item for health care services provided to these persons in prior fiscal years \$7,589,164
- 4000-1401 For the purposes of reinstating inpatient outlier benefits which were in effect on January 1, 2003 for all MassHealth members in hospital fiscal year 2006 \$18,750,000
- 4000-1405 For the operation of 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 executive office of health and human services to be long-term unemployed; provided, that such persons shall meet the eligibility requirements established under the MassHealth program as established in section 9A of chapter 118E of the General Laws; provided further, that the income of such persons shall not exceed 100 per cent of the federal poverty level; provided further, that said eligibility requirements shall

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not exclude from eligibility persons who are employed intermittently or on a non-regular basis; provided further, that 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; provided further, that funds may be expended from this item for health care services provided to recipients in prior fiscal years; provided further, that the secretary of health and human services is hereby authorized to limit or close enrollment if necessary in order to ensure that expenditures from this item do not exceed the amount appropriated herein; provided further, the executive office of health and human services shall seek federal approval by October 1, 2005 in order to enroll the maximum number of possible enrollees allowable within this appropriation in this program during fiscal year 2006; provided further, that no funds may be expended from this item prior to October 1, 2005; provided further, that 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 this item if such individual meets the categorical and financial eligibility requirements pursuant to this item; provided further, that such individual is either age 65 or older or age 19 to 64 and disabled; provided further, that any such individual shall not be subject to sponsor income deeming or related restrictions; and provided further, that funds from this item for health care services for said noncitizens may be expended as of the effective date of this act \$132,154,120

4000-1420 For the purposes of making payments to the federal centers for Medicare and Medicaid services in compliance with 42 USC 1396u-5 \$120,000,000

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 2006, 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 2006 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 not be 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 executive office of health and human services, 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 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 executive office of health and human services 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 2006, 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 \$320,000,000; 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, 2005 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 2005; (2) the total dollar amount billed to the pool in fiscal year 2005; (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 2005; 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; provided further, that notwithstanding any general or special law to the

contrary said division shall maintain the rate paid for the dispensing fees to retail pharmacies for prescribed drugs to publicly aided or industrial accident patients at \$3 in fiscal year 2006; provided further, that notwithstanding any general or special law to the contrary, the division of health care finance and policy, in conjunction with the executive office of elder affairs and the executive office of health and human services shall, by August 1, 2005, for all non-acute chronic and rehabilitation hospitals, adopt and implement, for the rate year effective October 1, 2005, a Medicaid rate reimbursement methodology, that utilizes a hospital base year of either 2002 or 2003; provided further, that in calculating the Medicaid rate of reimbursement for such hospitals, such reimbursement shall exclude any costs associated with any beds licensed by the department of mental health; provided further, that the division shall transfer its existing contract with Hampshire Community Action Commission for the demonstration project Hampshire Health Access to Hampshire HealthConnect, a program of Cooley Dickinson Hospital, effective May 1, 2005; and provided further, that said division shall not use any funds appropriated from the Health Care Quality Improvement Trust Fund for operating costs, including rent and utilities \$12,530,216

OFFICE ON DISABILITIES AND COMMUNITY SERVICES
Massachusetts Commission for the Blind

4110-0001 For the office of the commissioner; 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 in this item shall not exceed 5 per cent of the total amount appropriated for that item; provided further, that 30 days before 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 2006 that extend or expand services beyond the level of services provided in fiscal year 2005 shall not annualize above those amounts in fiscal year 2007 \$1,099,067

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- 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 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 \$3,786,958
- 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 executive office of health and human services, 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 \$315,769
- 4110-2000 For the turning 22 program of the commission; provided, 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 \$8,648,243
- 4110-2001 For services to clients of the department who turn 22 years of age during state fiscal year 2006; provided, that the amount spent from this item shall not annualize to more than \$435,000 in fiscal year 2007; 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 \$295,000
- 4110-3010 For a program of vocational rehabilitation for the blind in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grants or state

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appropriation shall be deducted for pensions, group health and life insurance, or any other such indirect cost of federally reimbursed state employees \$2,661,326

4110-4000 For the administration of the Ferguson Industries for the Blind; provided, that retired workshop employees shall receive grants equal to $\frac{3}{4}$ 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 \$1,885,073

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 in this item shall not exceed 5 per cent of the total amount appropriated for that item; provided further, that 30 days before 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 amounts appropriated to the commission that extend or expand services beyond the level of services provided in fiscal year 2005 shall not annualize above those amounts in fiscal year 2007; 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; and 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 \$571,395

4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the

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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 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 the residence; provided further, that not less than \$100,000 shall be expended on special vocational projects in the Charlestown section of the city of Boston for people with disabilities; and provided further, that not less than \$155,000 shall be expended for services provided by the Life Focus Center in said Charlestown section of the city of Boston \$7,476,987

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 the Charlestown section of the city of Boston 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 \$7,960,068

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 not less than \$25,000 shall be used to assist the Living Independently for Equality, Inc. of Brockton; and provided further, that not less than \$200,000 shall be expended for the SHARE Foundation at the University of Massachusetts at Dartmouth \$8,040,597

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 in this item shall not annualize to more than \$1,412,500 in state fiscal year 2007 \$712,550

4120-5000 For homemaking services \$4,417,049

4120-5050 The Massachusetts rehabilitation commission may expend not more than \$2,000,000 in revenues 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

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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 reported in the state accounting system \$2,000,000

4120-6000 For head injured services; provided, that the commission shall work with the executive office of health and human services 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; provided further, that not less than \$100,000 shall be expended for the Cape Cod head injury program; provided further, that of the \$100,000, \$50,000 shall be expended on a 1-time basis; and provided further, that not less than \$75,000 shall be expended on the Keeping Every Youth Safe program at the Massachusetts Brain Injury Association \$8,093,237

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 \$5,373,170

4125-0101 For the Massachusetts commission for the deaf and hard of hearing; provided, that the commission may expend not more than \$175,000 in revenues from charges received on behalf of interpreter services and monies received from private grants, bequests, gifts or contributions; 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 \$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 work in state-operated facilities for at least 1 year; provided further, that no fee, assessment or other charge

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shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2005; and provided further, that no new fee, assessment or other charge shall be implemented in fiscal year 2006 \$23,600,532

4180-1100 The Soldiers' Home in Massachusetts may expend not more than \$252,500 in revenues 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 the license plates, shall be deposited into and for the purposes of this retained revenue account of the 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, the 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 \$252,500

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 no fee, assessment or other charge shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2005; provided further, that no new fee, assessment or other charge shall be implemented in fiscal year 2006; and provided further, that in the operation of the outpatient pharmacy, the Soldiers' Home shall cover the cost of drugs prescribed at the 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;

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and provided further, the Soldiers' Home in Holyoke shall reopen not less than 4 long-term beds with funds appropriated in this item \$17,965,170

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 may charge to users of the program; provided, that no co-payments shall be imposed or required of any person which exceed the level of co-payments charged in fiscal year 2005; provided further, that no funds appropriated in this item shall be expended until the superintendent has submitted a report to the secretary and the house and senate committees on ways and means detailing projected expenditures for fiscal years 2006 and 2007 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, 2005; 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, but not be limited to, demographic information on said outpatient pharmacy users, including age and insurance status, 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 2006; provided further, that said report shall be submitted not later than January 16, 2006; 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 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 not more than \$168,603 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 the 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, the 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 \$168,603

Department of Youth Services

- 4200-0010 For the administration of the department of youth services; provided, that the department shall continue to collaborate with the department of education in order to align curriculum at the department of youth services with the statewide curriculum frameworks and to ease the reintegration of youth from facilities at the department of youth services into regular public school settings; and provided further, that the commissioner of youth services, in conjunction with the department of education, shall submit a report on progress made to the house and senate committees on ways and means by December 1, 2005 \$4,791,575
- 4200-0100 For supervision, counseling and other community-based services provided to committed youths in nonresidential care programs of the department; provided, that the commissioner may transfer up to 7 per cent of the amount appropriated in this item 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 \$21,038,530
- 4200-0200 For pretrial 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,

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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

\$19,642,022

4200-0300 For secure facilities, including purchase-of-service and state-operated programs incidental to the operations of the facilities; provided, that funds shall be expended for programs to address the needs of the female population including, but not limited to, the development of a stabilization unit and an independent living program, the enhancement of clinical services and at least 1 full-time female services coordinator; provided further, that funds shall be expended to address suicide prevention including, but not limited to, increased clinical capacity, increased clinical staff for risk assessment at intake, improved medication administration, enhanced psychiatric coverage at facilities, and the assurance of a 24-hour area-based on-call staff; provided further, that not less than \$1,250,000 shall be expended for the homeward bound program in the town of Brewster; provided further, that an amount not to exceed \$60,000 may be expended for reimbursements to providers for services rendered in prior fiscal years; provided further, that the commissioner may transfer up to 5 per cent of the amount appropriated in this item 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

\$99,199,256

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 2006 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, and 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 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 of the General Laws; provided further, that if assistance under said chapter 118 is denied, the application shall be transmitted by the department to the executive office of health and human services for a determination of eligibility under said chapter 118E; provided further, that the department shall continue policies to increase participation in the food stamp program; provided further, that not less than \$250,000 shall be expended on services from the Food Source Hotline;

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provided further, that not less than \$250,000 shall be expended for the food stamp outreach program; provided further, that the department may allocate funds, not to exceed \$2,500,000 from this item to item 4400-1100 for the costs of the department's caseworkers; 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 redeterminations; and provided further, that the department shall report to the house and senate committees on ways and means not later than December 15, 2005 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 \$65,200,000

4400-1025 For domestic violence specialists at local area offices \$620,556

4400-1100 For the payroll of the department's caseworkers, provided, that only employees of bargaining unit eight shall be paid from this item; and provided further, that the department may allocate funds, not to exceed \$1,000,000 from this item to item 4400-1000 for the administrative costs of the department of transitional assistance \$53,681,903

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, 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 1 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 workforce development 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 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 said subsection (f) of said section 110 of said chapter 5 becoming eligible for benefits, the department may offer to the recipient a skills assessment to identify barriers to employment; and provided further, that all of this item is subject to appropriation and, in the event of a deficiency, nothing in this item 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 \$21,047,902

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- 4401-1100 The department of transitional assistance may expend not more than \$3,000,000 from revenue received from the United States Department of Agriculture for food stamp outreach and employment and training programs and any enhanced funding or bonuses; provided, that the department may expend such revenue for employment and training services provided to recipients of transitional aid to families with dependent children \$3,000,000
- 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 2005; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section 110 of chapter 5 of the acts of 1995 shall be 2~ per cent below the otherwise applicable payment standard, in fiscal year 2006, pursuant to 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, 2005; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September, 2005; 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 3 month period after 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 and post-transitional benefits; provided further, that the department shall work with the department of early education and care to ensure that both recipients currently receiving benefits and former recipients during the 1 year period after 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 in

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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; provided further, that notwithstanding any general or special law to the contrary, 60 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; and provided further, that not less than \$418,074 shall be expended for the purposes of the operation of the Transportation Assistance Program operated by the Traveler's Aid Society \$312,868,845

4403-2001 For the Lift Transportation Program operated by the Traveler's Aid Society of Boston \$150,000

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 . . \$6,773,966

4403-2120 For certain expenses of the emergency assistance program as follows: (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; and (vi) voucher shelters; provided, that eligibility shall be limited to families with income at or below 130 per cent of the federal poverty level; provided, however, that any family whose income exceeds 130 per cent of the federal poverty level while the family is receiving assistance funded by this item shall not become ineligible for assistance due to exceeding the income limit for a period of 6 months from the date that the 130 per cent level was exceeded; provided further, that the department shall establish reasonable requirements for such families to escrow some or all of the portion of their income which exceeds 130 per cent of the federal poverty level; provided further, that any such escrowed funds

shall be exempt from otherwise applicable asset limits; provided further that the family shall be allowed to withdraw the amount placed in escrow upon transition to permanent housing or losing eligibility for shelter services; 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 eligible households shall be placed in shelters as close as possible to their home community unless a 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 eligibility for shelter by an otherwise eligible family shall not be impaired by prior receipt of any nonshelter benefit; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso; provided further, that the department shall make every effort to insure that children receiving services from this item shall continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso; provided further, that notwithstanding any other general or special law to the contrary, the department shall immediately provide shelter for up to 30 days to families who appear to be eligible for such shelter based on statements provided by the family and any other information in the possession of the department but who need additional time to obtain any third-party verifications reasonably required by the department; provided further, that the department shall not impose unreasonable requirements for third-party verification and shall accept verifications from

the family whenever reasonable; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso; 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 in this item; provided further, that notwithstanding any general or special law to the contrary, 60 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 all of this item shall be subject to appropriation and, in the event of a deficiency, nothing in this item 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; 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; provided further, that the department shall report quarterly to the house and senate committees on ways and means an unduplicated count of families who apply for emergency assistance funded family shelter during the fiscal year; provided further that the report shall include the total number of applications received, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the number of families who are approved for shelter benefits within 12 months of an initial denial, 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, the reasons that families exit shelters, including reasons for voluntary departure and termination, exiting families' housing plans, including type of housing arrangements, subsidy status, monthly rent, and gross monthly income, 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 include a status report on the outcomes of department-funded homelessness prevention initiatives, providing information on the nature and total cost of each such initiative, the number of families served by each such initiative, the average cost per family of each such initiative, the affordability and stability of housing or alternative shelter placements for prevention program recipients, including type of housing arrangement, subsidy status, monthly rent, and gross monthly income, and any other information that the department determines to be necessary in evaluating the operation of state-funded homeless prevention programs; and provided further, that not less than \$179,381 shall be obligated for capital projects and related facility upgrades at the Crossroads Family Shelter in East Boston \$73,600,000

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 executive office of health and human services, 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

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- and clinical eligibility criteria established by the department and the office; 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 \$205,568,300
- 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 no organization providing services to the homeless shall receive less than an average per bed/per night rate of \$12.92; provided further, that the department may allocate funds to other agencies for the purposes of this program; provided further, that of the amount appropriated in this item, \$34,000,000 shall be allocated to organizations that received funds from this item in fiscal year 2005; and provided further, that these organizations shall receive not less than the same percentage share of the \$34,000,000 as their percentage share of funds in fiscal year 2005 \$35,050,000
- 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 therefor; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or noncitizens 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 has 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 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 no person incarcerated in a correctional institution shall 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 item 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 in this item 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 in this item; 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 in this item shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that reimbursements collected from the Social Security Administration on behalf of former clients of

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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 in this item 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 in this item; and provided further, that notwithstanding any general or special law this item to the contrary, 60 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 \$70,079,481

Department of Public Health

- 4510-0099 The department may expend not more than \$6,000,000 in revenues collected from licensing, inspections and records for costs associated with the administration of the department . . . \$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 the position of assistant commissioner shall not be subject to chapter 31 of the General Laws \$19,537,533
- 4510-0106 For the end of life care commission, established by section 480 of chapter 159 of the acts of 2000; provided, that not more than \$100,000 shall be expended from revenues associated with grant and development activities \$100,000
- 4510-0110 For community health center services; provided, that no funds shall be expended in the AA object class for any personnel-related costs; provided further, that not less than \$200,000 shall be expended for the Cape Cod Free Clinic; provided further, that not less than \$100,000 shall be expended for the

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- Elder Health Center in Saugus; provided further, that not less than \$150,000 shall be expended for the Duffy Health Center; and 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, 2006 \$5,110,160
- 4510-0150 For the managed care program at community health centers known as CenterCare; provided, that no funds shall be expended in the AA object class for any personnel-related costs; 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); and 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 \$2,654,974
- 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 \$100,000 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 \$100,000 shall be expended for the purposes of research and prevention activities associated with Lyme Disease, so called, to be conducted by the Barnstable County Department of Health and the Environment; 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 program; provided further, that not less than \$81,000 shall be expended for the maintenance of a statewide lupus database; provided further, that \$150,000 shall be expended for the ALS registry created by section 26 of chapter 140 of the acts of 2003; provided further, that \$195,000 shall be expended for the purpose of the director of the bureau of environmental health assessment of the department of public health to continue an environmental risk assessment of the health impacts of the General Lawrence Logan Airport in the East Boston section of the city of Boston on any community that is located within a 5 mile radius of the airport and is potentially impacted by the airport; provided further, that the assessment may include, but not be limited to, examining incidences of respiratory diseases and cancers and performing medical and laboratory tests and examinations of residents of these communities; provided further, that the bureau shall report its findings together with any recommended response actions by the commonwealth to the house and senate committees on ways and means not later than February 1, 2006; and provided further, that no funds appropriated in this item shall be expended for the purpose of siting or locating a low-level radio-active waste facility in the commonwealth \$3,453,403

4510-0615 The department may expend not more than \$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 not more than \$1,374,195 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; 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 \$1,524,195

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- 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 fees 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 track and report the number and type of dementia or Alzheimer's special care units in each facility; provided further that the department shall provide quarterly reports of its findings to the house and senate committees on ways and means; provided further, that the division shall coordinate its work with the board of registration in medicine and the various other 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; 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, 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 section 72H of chapter 111 of the General Laws 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; 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 2005; provided further, that the division shall continue to research

and develop, in consultation with the nursing home industry and consumer representatives, appropriate confidential survey tools to assess consumer satisfaction in long-term care facilities; provided further, that 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 not later than April 30, 2006 \$7,684,277

4510-0712 The department may expend not more than \$504,922 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 not more than \$800,000 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 \$1,304,922

4510-0720 For a scholarship program for certified nurses' aide and direct care worker training; provided, that no funds shall be expended in the AA object class for any personnel-related costs; provided further, that the department shall establish appropriate 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

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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, the 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 5 per cent of the amount appropriated in this item and administrative costs of the program shall not exceed 5 per cent of the amount appropriated in this item \$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 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 financing, the joint committee on public health 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; and provided further, that the board shall submit the compilation to the house and senate committees on ways and

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- means, the joint committee on health care financing, the joint committee on public health and the commissioner of the department of public health by January 4, 2006 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 \$1,536,226
- 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 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 financing, the joint committee on public health 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; and 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 financing, the joint committee on public health and the commissioner of the department of public health by January 4, 2006 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 \$483,887
- 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 in-

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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 committees on ways and means and the joint committee on health care financing and the joint committee on public health by January 4, 2006 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 \$2,183,272

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 \$408,742

4510-0726 The board of registration in medicine, including the physician profiles program, may expend revenues not to exceed \$300,000 from new revenues associated with increased license and renewal fees \$300,000

4510-0790 For regional emergency medical services; provided, that no funds shall be expended in the AA object class for any personnel-related costs; 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; and 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 regula-

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	tions 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	\$1,246,896
4510-0810	For a statewide sexual assault nurse examiner program and for the care of victims of sexual assault; provided, that the program shall be established by the department to operate under specific statewide protocols and by an on-call system of nurse examiners	\$1,740,626
4510-0820	For a statewide pediatric sexual assault nurse examiner program and for the care of victims of sexual assault; provided, that the program shall be established by the department to operate under specific statewide protocols and by an on-call system of nurse examiners	\$1,000,000
4512-0103	For acquired immune deficiency syndrome services and programs; provided, that no funds shall be expended in the AA object class for any personnel-related costs; provided further, that no funds shall be transferred into the AA object class; 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 2006 that would fund units in excess of the number of units funded on June 30, 2005; provided further that not less than \$100,000 shall be expended for the Springfield Public Health	

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- Department; provided further, that funds shall be expended for the HIV/AIDS Case Management Program at the Haitian Multi-Service Center in the Dorchester section of the city of Boston; and provided further, that no funds from this item shall be expended for disease research in fiscal year 2006 . . . \$35,553,770
- 4512-0106 The department of public health may expend not more than \$1,900,000 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 \$1,900,000
- 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 no funds shall be expended in the AA object class for any personnel-related costs; provided further, that not less than \$45,000 shall be expended in grants for the Framingham Coalition for the Prevention of Drug and Alcohol abuse; provided further, that not less than \$90,000 shall be expended for Franklin Medical Center's Beacon Recovery program at the Orange Recovery House; provided further, that not less than \$99,000 shall be expended for Self Esteem Boston substance abuse direct service prevention programs and provider training programs; provided further, that not less than \$650,350 shall be expended for a contract with STEP, Inc., for sobriety treatment, education and prevention; provided further, that not less than \$99,925 shall be expended for Latinas y Ninos to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents and mothers recently reunified with children; provided further, that not less than \$100,000 shall be expended for a contract with the Bay Cove Human Services, Inc. for the purposes of establishing an independent licensed halfway house in the Charlestown neighborhood of Boston, in collaboration with the Charlestown Recovery House, Inc. for persons in recovery from alcoholism and chemical dependency; provided further, that \$75,000 shall be expended to establish an Opiate Abuse Prevention and Intervention Program for Youth in the City of Melrose; provided further, that not less than \$50,000 shall be expended to REACH, formerly known as the Waltham Support Committee for Battered Women; provided further, that not less than \$50,000 shall be expended for the Louis D.

Brown Peace Institute for homicide victims' family support services and anti-violence advocacy programs; provided further, that not less than \$250,000 shall be expended for the Latino After School Initiative; provided further, that not less than \$75,000 shall be expended for the Tynan Community Centers Adolescence Wellness Program in the South Boston section of City of Boston; provided further, that not less than \$125,000 shall be expended for the operation of the Barnstable Action for New Directions (BAND) program facilitated by Gosnold Society of Cape Cod Inc. in conjunction with the Barnstable district court and the Cape and Islands district attorney; provided further, that not less than \$200,000 shall be provided to the Boston municipal court and other district courts to fund treatment coordinators for the drug court program to treat nonviolent, substance-abusing offenders; provided further, that not less than \$833,000 shall be expended for the Volunteers of America Rebound Youth Residential Recovery Program at Long Island Hospital in the city of Boston for substance abuse and rehabilitation services to youths with addictions; provided further, that not less than \$90,000 shall be expended for a batterer prevention program in the city of New Bedford; provided further, that not less than \$100,000 shall be expended for the maintenance and operation of the Intensive Outpatient Program at the South Boston Collaborative for the purposes of responding to adolescent suicide clusters and drug abuse in the South Boston section of the City of Boston; provided further, that not less than \$961,324 shall be expended to Gavin Foundation for a male adolescent residential facility for substance abuse and rehabilitation services and for an adjoining female adolescent residential facility for substance abuse and rehabilitation services, totaling 28 beds located in the South Boston section of the City of Boston; provided further, that not less than \$319,500 shall be expended for a contract with Gavin Foundation, Inc. to provide a Total Immersion Program in conjunction with the Probation Department of the South Boston Division of the district courts, the Quincy Division of the district courts, the Somerville Division of the district courts, the Hingham Division of the district courts, the Brighton Division of the district courts,

and other district courts and that the funding shall be expended for the maintenance of a training program by the Gavin Foundation for a statewide Total Immersion Program; provided further, that the Gavin Foundation shall be contracted to provide Total Immersion Programs stated herein; provided further, that not less than \$100,000 shall be expended on 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 \$50,000 be expended for teens through programs provided by the Ashland Recreational Department; provided further, that not less than \$150,000 shall be expended for the New Beginnings program; provided further, that not less than \$200,000 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 the amount of \$150,000 shall be expended for the Northern Educational Services, Inc., so-called, outreach and prevention program in Springfield; provided further, that not less than \$60,000 shall be provided to Project COPE, Inc. in Lynn for the prevention and education of the problems associated with OxyContin and Heroine use; provided further, that not less than \$100,000 shall be expended for the Winchester Substance Abuse Coalition in the town of Winchester; and provided further, that not less than \$500,000 shall be expended for an opiate education and counseling competitive grant program in Suffolk county \$47,599,186

4512-0225 The department of public health may expend not more than \$654,942 for a compulsive gamblers' treatment program 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 no funds shall be expended in the AA object class for any personnel-related costs; provided further, that of the amount appropriated in this item, funds shall be expended to maintain a program of dental

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services for the developmentally disabled; provided further, that not less than \$122,000 shall be allotted to the Taunton Oral Health Clinic in the city of Taunton for the basic dental needs of moderate and low income residents of Southeastern Massachusetts; 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 \$1,678,150

4513-1000 For the operation of the bureau of family health services; provided, that no funds shall be expended in the AA object class for any personnel-related costs; provided further, that funds shall be expended on family planning clinics, rape crisis centers and primary care services for women and children; provided further, 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 not less than \$50,000 shall be expended for the Molly Bish Institute for Child Safety at Mount Wachusett Community College; provided further, that \$50,000 shall be expended for Falmouth Family Planning; provided further, that not less than \$158,000 shall be expended for the public health model of community engagement and intervention for sexual violence and intimate partner violence in the homosexual male community; provided further, that not less than \$800,000 shall be expended on the Refugees and Immigrant Safety and Empowerment program; provided further, that not less than \$200,000 shall be expended for ROCA, Inc. for outreach and youth development for at-risk youth and young adults in Chelsea, Revere, and East Boston; 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 \$9,240,196

4513-1002 For women, infants and children's (WIC) nutrition services in addition to funds received under the federal nutrition program; provided, that no funds shall be expended in the AA object class for any personnel-related costs; provided further,

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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; and provided further, that not less than \$680,000 shall be expended for the Growth and Nutrition Program \$12,859,601

4513-1010 The department of public health may expend not more than \$3,500,000 in revenue received from the collection of federal financial participation for early intervention services delivered to medicaid-eligible children by developmental educators and professionals in related disciplines; provided, that nothing in this item 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 in this item; and provided further, that the revenue may be used to pay for current and prior year claims \$3,500,000

4513-1012 The department of public health may expend not more than \$24,076,000 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 . . \$24,076,000

4513-1020 For the early intervention program; provided, that no funds shall be expended in the AA object class for any personnel-related costs; 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 executive office of health and human services, 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 in this item; 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

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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 the program and the amount of funds appropriated in this item granted to qualified families not later than February 1, 2006; 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 executive office of health and human services; provided further, that not less than \$1,000,000 shall be expended for the provision of cost reimbursement funding to certified Early Intervention Programs; and provided further, that nothing stated in this item 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 \$30,840,024

4513-1023 For the costs associated with the implementation of the universal newborn hearing program; provided, that no funds shall be expended in the AA object class for any personnel-related costs; and 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, postvention, and surveillance activities and the implementation of a statewide suicide prevention plan \$500,000

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 no funds shall be expended in the AA object class for any personnel-related costs \$1,300,000

4513-1113 For a program to raise public awareness and provide health care provider education on colorectal cancer, including dissemination of materials on preventing and screening the disease and cancer registry reporting; provided, that no expenditures

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- shall be made from this item in the AA object class for any personnel-related costs \$185,000
- 4513-1114 For the purposes of the Hepatitis C program, including mitigating the effects of Hepatitis C; provided, that no funds shall be expended in the AA object class for any personnel-related costs; 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; and provided further, that funds in this item shall supplement, and not supplant, funding for such purposes in item 4580-1000 \$562,876
- 4513-1115 For a multiple sclerosis screening, information, education and treatment program; provided, that no state employees shall be paid from this item; and provided further, that funds appropriated in this item shall be expended for the Multiple Sclerosis Home Living Independently Navigating Key Services program administered by the Central New England Chapter of the National Multiple Sclerosis Society to maximize matching dollars from the Society, to be used exclusively for the purposes of the program \$162,368
- 4513-1121 For a statewide STOP stroke program; provided, that this program shall expend funds to educate the public and providers, including emergency medical systems personnel, medical dispatchers and fire and police department personnel and out-patient facilities intake and discharge personnel, about the warning signs of stroke, the recognition of stroke symptoms, and the importance of timely and appropriate acute care treatment; provided further, that this program shall expend funds, as appropriate, to support initiatives related to primary stroke services regulations throughout all regions of the commonwealth, such as telemedicine infrastructure, community education efforts, or other needed supports; provided further, that the department shall coordinate such program with any ongoing federally-funded statewide efforts, including any program funded by federal cardiovascular health initiative grants; and provided further, that the program shall seek to maximize, through grant development or public-

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	private partnerships, available sources of funding to accomplish the goals of the program	\$300,000
4516-0263	The department of public health may expend not more than \$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 in this item; provided further, that funds from this item may be expended for the purchase of equipment for the drug laboratory at the state laboratory institute; provided further, that not less than \$240,000 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; provided further, of the \$240,000, not less than \$150,000 shall be expended for the continuation of the Oral Rabies Vaccine Project 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	

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- 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 \$10,277,658
- 4516-1022 The department may expend not more than \$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 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 \$300,000
- 4518-0200 The department may expend not more than \$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 no funds shall be expended in the AA object class for any personnel-related costs; 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 not less than \$477,643 shall be expended on those communities with the highest teen birth rates; provided further, that \$100,000 shall be expended for teen pregnancy prevention services in the town of Orange; provided further,

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that not less than \$150,000 shall be expended for the Berkshire Coalition to Prevent Teen Pregnancy program in Berkshire County; provided further, that not less than \$250,000 shall be expended for the abstinence-based teen pregnancy prevention programs in the cities of North Adams and Pittsfield; provided further, that of said \$250,000, not less than \$125,000 shall be expended for said program in the city of Pittsfield; provided further, that the department shall contract directly with vendors of teenage pregnancy prevention services; provided further, that not less than \$15,000 shall be provided to Girls, Inc. of Lynn for teen pregnancy prevention; and provided further, that not less than \$100,000 shall be expended for teen pregnancy prevention services in the city of Springfield \$2,000,000

4570-1500 For an early breast cancer detection program, mammographies for the uninsured, and a breast cancer detection public awareness program; provided, that no funds shall be expended in the AA object class for any personnel-related costs; and provided further that not less than \$107,500 shall be expended for Silent Spring Institute to complete the Household Exposure Study \$3,392,333

4580-1000 For the universal immunization program and the purchase and distribution of the pneumococcal conjugate vaccine; provided, that no funds shall be expended in the AA object class for any personnel-related costs; 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 in this item \$29,071,508

4590-0250 For school health services and school-based health centers in public and non-public schools; provided, that no funds shall be expended in the AA object class for any personnel-related costs; 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 and (4) incorporating obesity prevention programs, including nutrition and wellness pro-

grams in school curricula to address the nutrition and lifestyle habits needed for healthy development; provided further, that not less than \$350,000 shall be expended for the governor's commission on gay and lesbian youth; provided further, that not less than \$12,000,000 shall be expended for school nurses and school based health centers; provided further, that not less than \$200,000 shall be expended for Berkshire Area Health Education Center, Inc. for support and implementation of model community coalitions and community capacity building activities; and provided further, that the services shall meet standards and eligibility guidelines established by the department of public health in consultation with the department of education; and provided further, that \$99,000 shall be expended for the H.E.L.P. program for black male health; provided further, that not less than \$150,000 shall be expended to create the Childhood Obesity-School Nutrition Pilot Project, within the department of public health to initiate or maintain school lunch programs focused on diminishing the epidemic of childhood obesity; provided further, a public school seeking to institute or maintain a school nutrition program designed to reduce childhood obesity as part of its school lunch program, may apply to the department for a grant, not to exceed \$10,000 per school per year; provided further, that the application shall indicate the various nutritional and educational steps the school plans to follow as part of its plan, as well as a method for measuring results; and provided further, that grant applications and other appropriate criteria shall be determined and reviewed by the department

	\$14,718,309
4590-0300 For smoking prevention and cessation programs; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs	\$4,250,000
4590-0912 The department may expend an amount not to exceed \$14,630,014 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 object class 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	

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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 executive office of health and human services; 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 for 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 \$14,630,014

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 the department may expend not more than \$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

4590-0914 For a 3-year pilot program to promote the long term stability of direct care staffing and delivery of high quality care at the 4 public health hospitals by promoting the recruitment, retention and career advancement of direct care staff at said hospitals; provided, that the program may rely upon career path incentives, tuition and fee reimbursement, the purchase

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of training materials and contracted in-service training, internships and fellowships, web-based programs, agreements among said hospitals with the Commonwealth's public schools of nursing, and any other efforts that facilitate the pursuit of clinical competencies, higher degrees and advanced licensure, leadership and management skills, and other masteries that stabilize and enhance the delivery of patient care at the hospitals; provided further, that direct care employees of the departments of public health and mental health on the campuses of Lemuel Shattuck hospital, Tewksbury hospital, Western Massachusetts Hospital and the Massachusetts Hospital School shall be eligible for the program established in this section; provided further, that contracts of not less than 2 years' service at any of the hospitals shall be required of any direct care staff person benefiting from tuition reimbursement or other payment toward a degree from an institution of higher education funded by this item; provided further, that the program shall be managed by the hospital bureau of the department and may employ a program coordinator; provided further, that not more than \$180,000 of the amount appropriated in this item may be expended for the salary and expenses of the program coordinator; provided further, that not more than \$60,000 shall be expended for this purpose in any given year; provided further, that no expenditure shall be made from this item for the purpose of supplementing the wages paid to any such direct care staff; provided further, that the program shall file not less than 60 days before the end of the fiscal year a report summarizing objectives, strategies and achievements of the prior year; provided further, that the report shall make recommendations relative to the transferability of said accomplishments for implementation at other state-operated direct care facilities; and provided further, that the funds appropriated in this item shall be made available for expenditure through June 30, 2008 \$1,600,000

4590-0915 For the maintenance and operation of Tewksbury state hospital, Massachusetts hospital school, Lemuel Shattuck hospital, and for the hospital bureau, including the state office of pharmacy services; provided, that all revenue generated by the hospitals shall be credited to the General Fund; 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 in this item; provided further, that Tewksbury state hospital shall not be used to house county, state, or other prisoners; provided further, that the department shall take no action to reduce or realign the client population and services at 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; provided further, that Tewksbury hospital shall expend not less than \$2,000,000 for the purpose of executing the Plan of Correction submitted by the department to the Center for Medicare and Medicaid Services; provided further, that not less than \$1,000,000 shall be expended for capital needs of the hospitals; provided further, that \$1,400,000 shall be made available for the purchase of medical and other equipment for the hospitals, including the Western Massachusetts hospital, pursuant to a schedule detailing the priority needs of each such hospital; provided further, that said schedule shall be filed by the hospital bureau with the house and senate committees on ways and means not later than September 1, 2005; provided further, that no such expenditures shall be made prior to the filing of the schedule; provided further, that the schedule shall be updated within 6 months of filing to reflect any changes made to those priorities; provided further, that upon making final expenditures from the amount appropriated in this item, the schedule shall be updated to reflect actual purchases and be accompanied by a 5 year equipment replacement and upgrade plan; provided further, that \$275,000 shall be made available for the second of 6 annual TELP payments for a CT scanner procured for Lemuel Shattuck hospital; 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; and provided further, that notwithstanding any general or special law to the contrary the department shall seek to obtain federal financial participation for care provided to inmates of the department

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of correction and of county correctional facilities who are treated at the public health hospitals \$120,205,305

Department of Social Services

- 4800-0015 For central and area office administration; provided, that the associated expenses of employees whose AA object class 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 the department shall not place a child or adolescent referred by or discharged from the care of the department of mental health until the 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 the latter department in making such assessments and recommendations; provided further, that unless otherwise authorized, all funds including federal reimbursements received by the department shall be credited to the General Fund; and provided further, not less than \$1,000,000 shall be expended to hire additional staff needed to bring the department into compliance with regulations regarding foster care licensing, CORI checks, fair hearings, and any other finding of the April 14, 2005 audit . . \$69,604,798
- 4800-0016 The department of social services may expend for the operation of the transitional employment program an amount not to exceed \$2,000,000 from revenues collected from various state, county, or municipal government entities, as well as state authorities, for the costs related to the provision of services by the participants and the overhead costs and expenses incurred by the not for profit managing agent selected by the commissioner for administering the program; provided, that notwithstanding any general or special law to the contrary, the commissioner of social services may enter into a contract with Roca, Inc., a not for profit community based agency, to manage the transitional employment program and to provide services to participants from the ageing out population, parolees, probationers, youth service

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	releasees, or other community residents considered to have employment needs	\$2,000,000
4800-0025	For foster care review services	\$2,688,606
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	\$736,272
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 who would have been eligible for a clothing benefit under regulations in place on January 1, 2005 shall receive a clothing benefit in fiscal year 2006; provided further, that not less than \$7,000,000 shall be expended to ease the transition of certain children from group care into community settings; provided further, that these children shall receive the services necessary for their care and protection during the transition; provided further, that the department shall report to the house and senate committees on ways and means and the joint committee on children and families by March 15, 2006 on the utilization of the transitional funds and the progress of the implementation of the department's reprocured system of care; provided further, that not less than \$2,200,000 shall be expended for the Young Parent Support Program; provided further, that not less than \$500,000 shall be expended on the recruitment and retention of foster parents; 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 whether or not to discontinue any program, including earmarked programs, the cost of which, per unit of service or service outcomes, do not fall within a reasonable standard; provided further, that not less than \$348,850 shall be expended for Latinas y Ninos and Casa Esperanza; provided further, that not less than \$300,000 shall be expended for Summerhill House in Norwood; 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 \$295,000 shall be expended for Massachusetts Families for Kids; provided further, that not less than \$257,000 shall be expended for a contract for an integrated family services team in region 6; provided further, that not less than \$257,000 shall be expended for the Laboure Center in South Boston; provided further, that not less than \$250,000 shall be expended on a juvenile firesetters program; 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 \$200,000 shall be expended to support the family center component of the Greater Lowell Family Resource Center; provided further, that not less than \$150,000 shall be expended in region 1 for a community-based family unification counseling program to prevent juvenile delinquency; 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 less 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 dropout; provided further, that not less than \$130,000 shall be expended for the Children's Cove Cape and Islands Child Advocacy Center; provided further, that not less than \$104,123 shall be expended on the Teen Parenting program at Framingham High School; provided further, that not less than

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\$100,000 shall be expended for the operation of the Healthy Families program; provided further, that not less than \$100,000 shall be expended for North End Outreach Network of Springfield; provided further, that not less than \$100,000 shall be expended for Alive with Awareness, Knowledge and Empowerment of Springfield; provided further, that not less than \$100,000 shall be expended for a family re-unification program operated by Aid to Incarcerated Mothers to maintain strong parent-child relationships during a mother's incarceration; provided further, that not less than \$100,000 shall be expended for the South End Community Center of Springfield, Inc.; provided further, that not less than \$60,000 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; provided further, that not less than \$50,000 shall be expended for Multicultural Alzheimer's Services Project in Springfield; provided further, that not less than \$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 not less than \$45,000 shall be expended for a contract with Big Brothers and Sisters of Cape Cod and the Islands; provided further, that not less than \$25,000 shall be expended for Concilio Hispano in Somerville; provided further, that not less than \$20,000 shall be expended for the Haitian Coalition of Somerville; provided further, that not less than \$20,000 shall be expended for the Massachusetts Association of Portuguese 'Speakers in Cambridge; and provided further, that not less than \$15,000 shall be expended for a contract with child and family services of Cape Cod for the court diversion program \$272,741,996

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; and 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,

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the associated cost savings 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

- \$235,944,538
- 4800-0091 The department of social services may expend not more than \$3,000,000 in federal reimbursements received under Title IV-E of the Social Security Act during fiscal year 2006 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 Salem State College; provided, 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 payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that notwithstanding section 1 or any other general or special law to the contrary, federal reimbursements received in excess of \$3,000,000 shall be credited to the General Fund; provided further, that no funds shall be expended from this item for lease-purchases or the Family-Net System; and provided further, that not more than \$50,000 may be expended for information technology purchases needed for the institute \$3,000,000
- 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 placements 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 \$310,743
- 4800-1100 For the AA object class 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 \$136,297,301

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 enhance 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 the department shall continue to provide any match funding required by federal program regulations; provided further, that not less than \$1,037,000 shall be expended for the YWCA Battered Women's shelter in Springfield; provided further, that not less than \$90,000 shall be expended for the New England Learning Center for Women in Transition Survivor's Project in Berkshire, Hampden, Franklin and Hampshire counties; provided further, that not less than \$75,000 shall 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 \$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; 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; provided further, that not less than \$15,000 shall be expended for the Words not Weapons mentoring project in Saugus; provided further, that not less than \$10,000 shall be expended for the Melrose Alliance Against Violence; provided further, that not less than \$10,000 shall be expended for the domestic abuse response team which serves the Ipswich district court; and provided further, that domestic violence prevention specialists shall be funded from this item \$20,867,496

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 \$37,144,330

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 in this item 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 16, 2006 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 2004 and 2005 in the clinical acuity of children and adolescents; provided further, that not less than \$2,500,000 shall be expended for the Child Psychiatric Access project; and provided further, that not less than \$1,800,000 shall be expended from this item in fiscal year 2006 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 \$71,419,901

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; provided further, that \$100,000 shall be expended for a jail diversion program in Framingham; provided further, that the department shall submit a report to the house and senate committees on ways and means no later than March 1, 2006 on the feasibility of expanding this diversion program to other regions of the commonwealth; provided further, that funds spent from this item for the purposes of research in fiscal year 2006 shall not be less than the amount spent in fiscal year 2005 for such purposes; provided further, that not less than \$3,000,000 shall be expended for services for clients of the department who are aging into the adult system from the child/adolescent mental health system or other systems of care if the clients meet the clinical eligibility criteria of the department; provided further, that the department shall report to the house and senate committees on ways and means no later than February 16, 2005 on the use of any funds expended for this purpose 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

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	of services received in each region for fiscal year 2006 not later than February 1, 2006	\$293,277,097
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	\$22,210,686
5046-4000	The department of mental health may expend not more than \$125,000 in revenue collected 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 executive office of health and human services for the purchase of services and for such other services as the 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 the agreement may be expended for community services in the MM object class of this item; and provided further, that the emergency service programs shall take all reasonable steps to identify and invoice the third party insurer of all persons serviced by the programs	\$31,482,359
5047-0002	The department of mental health may expend not more than \$4,500,000 in revenue collected from services rendered in emergency programs and acute inpatient and diversionary settings on continuing care services in the community; 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; 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, 2006 detailing the use of any funds encumbered or expended	

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	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	\$6,050,905
5095-0015	For the operation of adult inpatient facilities, including the community mental health centers; provided, that in order to comply with 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 no action to reduce the client population of the Worcester or Westborough facilities 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 the hospital building plan is completed and the General Court shall have approved the closure of Worcester State Hospital and Westborough State Hospital; 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	\$159,881,738

Department of Mental Retardation

5911-1000	For the administration of the department of mental retardation; provided, that the department shall not charge user fees for transportation or community day services; provided further, that the department shall not charge fees for eligibility determination for services provided by the department or for applications of requests for transfer of guardianship; provided further, that notwithstanding any general or special law to the contrary, in fiscal year 2006 the comptroller shall transfer from the Uncompensated Care Trust Fund account established pursuant to subsection (p) of section 18 of chapter 118G of the General Laws an amount sufficient to reflect the costs of the assessment on public facilities collected pursuant to section 27 of chapter 118G of the General Laws and an amount sufficient to fund rate increases for services provided to MassHealth members by non-public intermediate care facilities and community based residences; provided further, the comptroller shall transfer the federal financial participation received as a result of expenditures funded by the assessments to an account established for the department of mental retardation to administer for the purposes described above; and provided further, that the assessments shall not be collected and the expenditures shall not be authorized until the department of mental retardation and the executive office of health and human services certify the receipt of federal approval of any home and community based waiver amendments and related Title XIX state plan amendments, if required	\$12,799,349
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; 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	\$13,891,791
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	\$53,490,519

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- 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 2005 pursuant to item 5920-5000 of section 2 of chapter 149 of the acts of 2004; provided further, that \$8,250,000 shall be expended for the fiscal year 2005 annualized cost of the settlement agreement Rolland vs. Cellucci, so-called, and \$5,000,000 shall be expended for the fiscal year 2006 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 object class 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; and provided further, that not more than \$5,000,000 shall be transferred from this item in fiscal year 2006; provided further, that not less than \$100,000 shall be allocated for Special Olympics for the purpose of unified sports; provided further, that not less than \$50,000 shall be expended for the Advocacy Resource Center in New Bedford to provide critical family support services in the area of community-based resident education for special needs children; provided further, that not less than \$500,000 shall be expended for Best Buddies Massachusetts; provided further, that an additional \$304,000 shall be expended on a contract with Work, Inc. for enhance or expanded services to clients; and provided further that not less than \$100,000 shall be provided for GROW in Stoughton \$500,173,626
- 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 \$119,556,581
- 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

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	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 in this item shall fund attorneys' fees for this action	\$85,614,277
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 2005 pursuant to item 5920-5000 of section of chapter 149 of the acts of 2004; provided, that not less than \$302,000 shall be expended for the Life Focus Center in the Charlestown section in the city of Boston	\$113,308,979
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 2005 pursuant to item 5920-5000 of section 2 of chapter 149 of the acts of 2004; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services; and provided further, that not more than \$50,000 be expended for the Friendship Home project in the town of Norwell	\$51,289,967
5920-3010	For contracted support services for families with autistic children through the autism division at the department of mental retardation; provided, that not less than \$200,000 shall be expended for the purposes of a contract with Melmark New England to provide training and support to families, educational collaboratives and public school districts on methods for coping with behavioral challenges associated with children who have autism spectrum disorders	\$1,200,000
5920-5000	For services to clients of the department who turn 22 years of age during state fiscal year 2006; provided, that the amount appropriated herein shall not annualize to more than \$13,600,000 in fiscal year 2007; provided further, that the department shall report to the house and senate committees on ways and means not later than January 2, 2006, 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;	\$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, hereinafter '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 if 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 information relative to the status of residents 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, 2006; provided further, that the Fernald development Center shall not be closed before October, 2005 to ensure adequate community, client, and family member input into the closure planning process; provided further, that the department of mental retardation shall submit a plan regarding community

transitions from ICF/MRs by January 1, 2006 to the house and senate committees on ways and means; provided further, that said plan shall detail the transition of clients from said school to appropriate settings; provided further, that the plan shall include consideration for the transition of employees of said school into community setting with their clients in order to ensure continuity of service wherever possible; provided further, that said plan shall be subject to the approval of the house and senate committees on ways and means; 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 \$165,986,286

5982-1000 The department of mental retardation may expend not more than \$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, 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 \$100,000

EXECUTIVE OFFICE OF TRANSPORTATION.

Office of the Secretary.

6000-0100 For the office of the secretary of transportation; 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, 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, 2006 and the last day of each subsequent fiscal year; provided further, that no less than \$25,000 shall be expended for costs associated with the special transportation finance commission established under section 13 of chapter 196 of the acts of 2004; provided further, 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 6010-0002 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; provided further, that the reports shall delineate the information for full-time employees, part-time employees and contracted personnel; 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 \$229,158

Highway Fund 100.0%

6000-0110 For the purpose of property management and maintenance of railroad properties owned by the executive office of transportation on behalf of the commonwealth, including the cost of personnel; provided, that the office may expend 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

6000-0200 For the inter-district transportation program; provided, that this program shall include routes currently serviced through the inter-district transportation program including, but not limited to, bus routes Lift 5, 6 and 7 so-called; provided, that the program shall be administered by the executive office of transportation; provided further, that the executive office of transportation shall negotiate an extension of all existing contracts for fiscal year 2006; provided further, that before the execution of the extensions, and at the end of fiscal year 2006,

the executive office shall request and each contractor shall provide all necessary books, materials, records and other compilations of data from each contractor to establish the appropriate state subsidy associated with each bus route; and provided further, that the compilations of data shall be made available to the senate and house committees on ways and means and the joint committee on transportation \$2,000,000

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, 2005 and ending June 30, 2006, 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 2005 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 2006 shall not exceed 102.5 per cent of its operating expenditures for fiscal year 2005; 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, 2006, 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 shall 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 shall develop processes and procedures for contracts for services with other state agencies; provided further, that the executive office of transportation and the authorities shall develop a 5-year transit plan for operational and capital objectives that the parties may measure against and plan toward and shall file the plan with the house and senate committees on ways and means no later than April 1, 2006; provided further, that the executive office of transportation and the authorities shall 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

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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 fare and/or revenue recovery ratio of 40 per cent within 24 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, 2005, 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 2006, and focus the report on the reforms and improvements \$50,182,640

General Fund	80.0%
Highway Fund	20.0%

Massachusetts Aeronautics Commission.

6006-0003 For the administration of the commission, including the expenses of the commissioners \$524,922

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, and for the costs associated with the global positioning system program; provided, that no expenditures shall be made from the AA object code; provided further, that portions of state highway

routes 1A, 129, 129A, 114 and 127 in the cities of Lynn, Salem, Beverly and Gloucester and the towns of Swampscott, Marblehead, Manchester-by-the-Sea and Rockport are hereby designated as state scenic byways; 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 that, by June 30, 2007, shall phase into the budgetary appropriation all personnel costs transferred to capital authorizations since June 30, 2002; provided further, that such plan be reported to the house and senate committees on ways and means by December 31, 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 the 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 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 costs of routine highway maintenance provided by private and union workers in contract areas 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 depart-

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ment 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; and provided further, that \$15,000 shall be expended for the beaver maintenance in the town of Orange . . . \$15,296,640

Highway Fund 100.0%

6010-0002 For AA object class payroll costs of item 6010-0001; provided, that the funds appropriated in this item shall be the only source of funding for all overtime expenses associated with the department's snow and ice control efforts \$19,402,594

Highway Fund 100.0%

6010-0003 The department of highways may expend revenues collected up to \$7,000,000 from revenue generated from promotional programs; provided, that funds collected are to be used for the management of that program and for highway maintenance costs; provided further, that the department shall prepare a report delineating the proposed allocation of funds to be expended for the management of that program and highway maintenance costs; provided further, that the report shall be filed with the house and senate committees on ways and means 30 days prior to any encumbrance of the funds; and provided further, that the program and any expenditures made pursuant to the program must comply with all statutes, rules and regulations governing billboards, signs and other outdoor advertising devices \$7,000,000

Highway Fund 100.0%

6030-7201 For the cost of hired and leased equipment, vehicle repair, fuel costs, and sand, salt, and other control chemicals used for snow and ice control; provided further, that \$20,000 shall be expended for conducting an environmental assessment and developing a remediation plan to address the ongoing pollution of drinking water in the town of Andover due to the presence of a salt storage depot in that town \$20,000,000

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 not less than \$110,000 shall be expended to operate 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 license express office in the town of Falmouth; provided further, that the registry may operate a full-service office in the city of Lowell; provided further, that the 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; 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 the record shall include, but not be limited to, the names and addresses of the lessor and the lessee; provided further, that the registry shall take all steps necessary to improve customer service within existing resources; and 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 \$46,598,649
Highway Fund 100.0%

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8400-0016	For the operation of the motorcycle safety program	\$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 participate in the state's intercept program; and provided further, that no costs payable in the AA object class 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 payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that 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 object class shall be charged to this item	\$3,500,000
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	\$3,500,000

Board of Library Commissioner

- 7000-9101 For the operation of the board of library commissioners; provided, that the provisions of section 19A of chapter 78 of the General Laws or any other general or special law to the contrary, for the fiscal year 2006 state aid to public libraries program, the board of library commissioners shall consider that Lynn has met the standard of minimum hours of service as set forth in section 19B of chapter 78 of the General Laws and defined in 605 CMR 4.01(3); provided further, that the board shall grant temporary certification to Lynn by August 31, 2005, upon receipt of a preliminary report showing compliance with the materials expenditure requirement during fiscal year 2005 and showing that the library has met the municipal appropriation requirement, or is likely to qualify for a waiver of said requirement, in the 2006 state aid to public libraries program; provided further, that the board shall grant temporary certification to Beverly by August 31, 2005, upon receipt of a preliminary report showing compliance with the materials expenditure requirement and hours of service requirement during fiscal year 2005 and showing that the library has met the municipal appropriation requirement in the 2006 state aid to public libraries program; and provided further, that in order for either city to retain this certification and receive a grant award it must successfully complete the annual certification process of the board in fiscal year 2006 \$985,720
- 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; and provided further, that notwithstanding any general or special law to the contrary, in calculating the

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	fiscal year 2006 distribution of funds appropriated herein, the board of library commissioners shall employ population figures used to calculate the fiscal year 2005 distribution	\$15,230,361
7000-9402	For the talking book library at the Worcester public library	\$325,000
7000-9406	For the Braille and talking book library at Watertown, including the operation of the machine lending agency; provided, that not less than \$50,000 shall be expended for the National Federation of the Blind Newsline Program	\$1,978,550
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 no more than 55 additional 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 2006 for a period of not more than 1 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	\$9,039,844
7000-9506	For the technology and automated resource sharing networks	\$2,000,000

EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT

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; provided further, that the office shall be the primary governmental office or agency	
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	to facilitate motion picture production and development within the commonwealth	\$398,808
7002-0012	For a youth-at-risk program targeted at reducing juvenile delinquency in high risk areas of the commonwealth; provided, that \$500,000 of these funds shall be matched by private organizations	\$4,000,000

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, 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	\$2,480,246
7002-0201	The division of occupational safety may expend an amount not to exceed \$152,850 received from fees authorized pursuant section 3A of chapter 23 of the General Laws	\$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, 2006 to the house and senate committees on ways and means detailing the scope, objective and results of grant recipients' safety training program; 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; 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	

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	expenses to continue expansion of the conversion of the agency's computer system from unify to oracle	\$19,788,445
7002-0600	For the operation of the labor relations commission	\$832,701
7002-0700	For the operation of the joint labor management committee for municipal police and fire	\$530,126
7002-0800	For the operation of the board of conciliation and arbitration	\$768,337

Department of Workforce Development.

7002-0100	For the administration of the department of workforce development, including the divisions under the control of the department; provided, that on January 4, 2006 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 labor exchange, skills training and remedial education services related thereto which have been provided during the course of the fiscal year in the commonwealth, describing the systems for delivery of such services, describing the costs of such services and the sources of revenue for such services	\$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 \$50,000 of the fees collected by the division for this identification card program shall be deposited into the special trust account created to fund and maintain the identification card program pursuant to chapter 11W of chapter 23 of the General Laws 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

\$419,961

7003-0604 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 grants may include training for English for speakers of other languages and other language and adult basic education programs to improve quality of care and improve direct care worker access to and participation in career ladder training; 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 committees 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 appropriated in this item;

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	and provided further, that each grant may include funding for technical assistance and evaluation	\$1,500,000
7003-0605	For the operation and maintenance of the Massachusetts Manufacturing Extension Partnership for the purpose of maintaining and promoting manufacturing as an integral part of the Massachusetts economy	\$850,000
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 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 and means committee by January 15, 2006; provided further, that the 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 the 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, each of the 16 workforce investment boards shall receive \$75,000 in fiscal year 2006; provided further, that of said \$3,000,000, each of the boards shall receive \$20,000 for youth councils; and provided further, that the director shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training	\$21,000,000
	Workforce Training Fund	100.0%
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 \$500,000 shall be expended for a high school science teacher training program in biotechnology by Commonwealth Corporation; provided further, that not less than \$450,000 shall be expended for education, career development and employment service programs operated by the Urban League of Massachusetts; provided further, that not less than \$400,000 shall be expended on the Commonwealth Corporation; provided further, that not less than \$350,000 shall be provided to the town of Blackstone for the Lake Hiawatha area; provided further, that not less than \$300,000 shall be expended for the Jewish Memorial Hospital for the purposes of employee skills training and development; provided further, that not less than \$300,000 shall be expended to provide employment, training and job placement by Year Up of Boston; provided further, that not less than \$300,000 shall be expended for a hospital skill training program operated by the Commonwealth Corporation; provided further that not less than \$250,000 shall be expended to fund need based workforce development related to continuing education grants administered by the Access Program of Boston, an affiliate program of the Boston Plan for Excellence; provided further, that not less than \$250,000 shall be expended for a gang intervention prevention program called the Senator Charles E. Shannon Jr. At-Risk Youth Project, operated by the Center for Teen Empowerment Inc., for the community of Somerville; provided further, that not less than \$250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further; that not less than \$250,000 shall be expended for the Center for Women & Enterprise; provided further, that not less than \$250,000 shall be expended on the Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than \$250,000 shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business but the grant shall require a 200 per cent match from the private sector; provided further, that not less than \$200,000 shall be expended on the welfare-to-work employment mentoring program to be operated by the Jewish Vocational

Service and the Women's Union in the city of Boston; provided further, that not less than \$200,000 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 \$200,000 shall be expended to the Western Massachusetts Enterprise Fund; provided further, that not less than \$200,000 shall be expended on 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 by or employ income-eligible residents; provided further, that not less than \$200,000 shall be expended for the Massachusetts Career Development Institute, In (MCDI) in Springfield; 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 a Farm Workers' Council serving low income people and the Hispanic population in western Massachusetts; provided further, that not less than \$139,500 shall be expended for 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 transitional aid to families with dependent children; 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 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 \$100,000 shall be expended for the Boston Health Care and Research Training Institute; provided further, that not more than \$100,000 shall be expended for both the Reunion Center in the town of Easthampton and the Easthampton Youth Entrepreneurship Project; provided further, that not less than \$100,000 shall be

expended for the Hispanic Chamber of Commerce in the city of Holyoke; provided further, that not less than \$100,000 shall be expended for the MetroWest/495 Corridor Partnership, as successor to the I-495 Technology Initiative; provided further, that not less than \$100,000 shall be expended for the Springfield Technical Assistance Program to be operated by the Affiliated Chambers of Commerce of Springfield; provided further, that not less than \$100,000 shall be expended for Centro Las Americas to provide workforce training, educational services and other transitional services in the city of Worcester; provided further, that not less than \$95,000 shall be expended for the Mature Workers Program of the Cape and Islands Workforce Investment Board; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in the city of Worcester; provided that \$75,000 shall be expended as a planning grant for the Springfield Health Careers Partnership Program, UMASS/Amherst School of Public Health and Health Sciences; provided further, that not less than \$65,000 shall be expended for economic and workforce development opportunities in the downtown and waterfront districts in the city of Lynn; 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; provided further, that not less than \$40,000 shall be expended to enhance the economic vitality of the Santilli circle area in Everett; and provided further, that not less than \$7,500 shall be provided for the Bonnie Brae Camp in the city of Gardner \$7,959,000

Workforce Training Fund 100.0%

7003-0803 For the one-stop career centers; provided, that not less than \$2,750,000 shall be expended for the one-stop career centers that were in existence on May 1, 1997, 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 benefits who seek assistance from the center of the full range of education and training programs that are available to them, the availability of jobs in the professions for which the programs

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prepare participants, and the average wage rates in the professions within the commonwealth; provided further, that such information shall encompass certified nurses aide training programs, job availability and wage rates; and provided further, that not less than \$1,000,000 shall be expended for 1-stop career centers that opened after January 1, 1999 \$4,000,000

Department of Housing and Community Development

- 7004-0000 For the commonwealth development coordinating council; provided, that not less than 30 days before entering into any interagency service agreement, the council shall report in writing to the house and senate committees on ways and means a description of the agreement, including its purpose, the employees expected to be affected, and the estimated amount of the funds involved; provided further, that not later than September 15, 2005 said council shall submit a report detailing its fiscal year 2005 payroll, operational and administrative expenditures to the house and senate committees on ways and means; provided further, that said report shall detail all sources of funding used in fiscal year 2005 and an explanation of all funds expended in excess of the amount appropriated in this item in fiscal year 2005; and provided further, that no funds appropriated herein shall be expended or encumbered after September 16, 2005 unless said report has been submitted to the house and senate committees on ways and means \$246,720
- 7004-0001 For the Indian affairs commission; provided, that not less than \$100,000 shall be expended for the development of a Native American Institute to be developed in conjunction with the Massachusetts Commission on Indian Affairs and Tribal Leaders in Massachusetts \$198,449
- 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 expenditures 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 maintain 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 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, 7004-9009, 7004-9014, 7004-9019, 7004-9020, 7004-9024, 7004-9030 and 7004-9033; 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; and 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 less than \$125,000 shall be expended for the Hungry Hill Development Corporation in the city of Springfield; provided further, that not less than \$10,000 shall be expended for the Turning Point Day Resource Center for the Homeless in the town of Wareham; provided further that \$25,000 shall be expended for the Allston-Brighton Community Development Corporation continued operation of a grant program to enhance housing quality standards; provided further, that \$50,000 shall be expended for the continued operation of computer technology centers at the Commonwealth Housing Development, the Jackson Mann Community Center and the Power Up Center at Brighton High School; provided further, that not less than \$100,000 shall be expended for the Pleasant Street Neighborhood Network Center in Worcester; provided further, that not less than \$100,000 be expended for Neighbors in Need in Lawrence; provided, that \$250,000 shall be granted to the town of North Reading for the costs of the economic development of property off Elm Street commonly known as the Smith Farm and shown on North Reading assessors maps as map 62 lot 78, map 62 lot 38, map 75 lot 08 and map 76 lot 17; provided further, that not less than \$15,000 shall be made available to the town of Reading for the upgrade, renovation, repair or installation of technology equipment and infrastructure for the use of municipal government; provided further, that not less than \$95,000 shall be expended for the Boston Housing Authority for a program to provide certain tenant services for the West Broadway Task Force; provided further, that funds appropriated herein shall be obligated for expenditure by the West Broadway Task Force for the purposes of tenant services provided by said Task Force; provided further, that funds appropriated herein shall not be expended by the Boston Housing Authority for discretionary purposes; provided further, that not less than \$53,000 be expended for Food for the World Pantry; provided further that \$61,200 shall be expended for the Worcester Housing Authority for a resident services employment coordinator; provided further, that the amount of \$100,000 shall be expended for the Springfield Neighborhood Housing Services, Inc.; provided further, that not less than \$25,000 be

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	expended for Marlborough Community Development Corporation; providing further, that not less than \$25,000 shall be expended for one staff position for the Beverly Affordable Housing Coalition; provided further, that no less than \$20,000 shall be expended for Methuen-Arlington Neighborhood, Inc.; provided further, that not less than \$50,000 shall be expended for the Cambridge Housing Authority Work Force Program; provided further, that not less than \$100,000 shall be expended for the Indian Orchard Main Street Partnership; provided further, that \$200,000 shall be expended on technical assistance for smart growth administration; provided further, that \$100,000 shall be expended for the design phase of the Pembroke Council of Aging; and provided further, that not less than \$100,000 shall be made available for case management services for indigent households residing in subsidized affordable rental housing in southeastern Massachusetts owned and operated by a not-for-profit organization;	\$8,559,992
7004-2475	For the homeownership opportunity affordable housing program; provided, that all sums appropriated shall be used to write down interest rates on soft second mortgage loans for low and moderate income first-time home buyers	\$2,500,000
7004-3036	For housing services and counseling; provided, that not less than \$1,000,000 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 under criteria created by the department; 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 object class for the compensation of state employees	\$1,221,925
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 that housing	\$490,401

- 7004-9005 For subsidies to housing authorities and nonprofit organizations including funds 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 object class, 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 2006 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 \$34,871,170
- 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 under 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 the 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 monthly dollar amount of each voucher shall be the department-approved total monthly rent of the unit less the monthly amount paid for rent by the household; 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 its rental unit in an amount exceeding 2 months' 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 the department shall pay agencies \$32.50 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, each household holding a project-based voucher shall pay at least 30 per cent but not more than 40 per cent of its income as rent, and each household holding a mobile voucher shall pay at least 30 per

cent but not more than 40 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, 2005 if the participant's annual eligibility recertification date occurs between June 30, 2005 and September 1, 2005 and otherwise on or before the 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 not later than February 1, 2006 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 object class 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, 2005 \$26,283,345

7004-9030 For the transitional rental assistance program established pursuant to section 16 of chapter 179 of the acts of 1995; provided, that notwithstanding any general or special law to the contrary, the transitional rental assistance shall be in the form of mobile vouchers; provided further, that the vouchers shall be in varying dollar amounts set by the department based 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 its rental unit in an amount exceeding 2 month's rent during any 1 year shall be terminated from the program; provided further, that the 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 per centage applicable to the amount of income paid for rent by each household holding a mobile voucher, but each household shall be required to pay not less than 25 per cent of its net income, as defined in regulations promulgated by the department, for units if utilities are not provided by the unit owner, or not less than 30 per cent of its income for units if utilities are provided by the unit owner; provided further, that payments for the transitional rental assistance may be provided in advance; provided further, that the 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 the 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 the 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 \$3,000,000 in fiscal year 2007; and provided further, that said program shall provide funding for not more than 800 mobile vouchers \$3,000,000

7004-9033 For rental subsidies to eligible clients of the department of mental health; provided, that the department shall establish the amounts of those subsidies so that payment thereof and of any other commitments from this item shall not exceed the amount appropriated herein \$2,500,000

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 2006 for said fiscal year or any subsequent fiscal years; and provided further, that funds may be allocated by said agency to its existing interest subsidy contracts in a manner as it may determine necessary to maximize the preservation of existing affordable housing units throughout the commonwealth \$5,500,000

7004-9315 For the low-income housing tax credit program; provided, that the department may expend not more than \$1,500,000 from

revenue collected from fees collected for the regulation of TELLER projects undertaken under 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 the 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

7004-9316 For a program to provide assistance for homeless families and families at risk of becoming homeless; provided, that the amount of financial assistance shall not exceed \$3,000 per family; provided further, that funds may be used for security deposits, first and last month's rent and utility payments; provided further, that assistance shall be administered by the department through contracts with the regional non-profit housing agencies; provided further, that no such assistance shall be provided to any family with an income in excess of 50 per cent of the area median income; provided further, that prior to authorizing a residential assistance payment for a family, the non-profit housing agency shall make an assessment of whether the payment, with or without additional housing stabilization support, will enable the family to retain its current housing, obtain new housing, or otherwise avoid homelessness; provided further, that in making such assessment the agency shall apply a presumption that the payment will enable a family to retain its housing, obtain new housing, or otherwise avoid homelessness if the family is paying less than or equal to 50 per cent of its income for that housing; provided further, that a family who is paying more than 50 per cent of its income for its housing shall be provided a fair opportunity to establish that a residential assistance payment will enable it to retain its housing, obtain new housing, or otherwise avoid homelessness; provided further, that residential assistance payments may be made through direct vendor

payments according to standards to be established by the department; provided further, that the agencies shall establish a system for referring families approved for residential assistance payments who the agencies determine would benefit from such services to existing community-based programs that provide additional housing stabilization supports, including assistance in obtaining housing subsidies and locating alternative housing that is safe and affordable for those families; and provided further, that the program shall be administered under guidelines established by the department . . . \$5,000,000

Office Of Consumer Affairs and Business Regulation.

7006-0000 For the office of the director of consumer affairs and business regulation, including expenses of an administrative services unit . . . \$1,523,155

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, special laws or state regulations; and 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 \$11,178,594 in additional revenue that shall pay for this item . . . \$11,178,594

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 51 of chapter 111 of the General Laws; provided further, that notwithstanding any general or 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 under powers granted to the division by the General Laws, special laws 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 \$10,026,621 in additional revenue that will pay for this item \$10,026,621

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 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 \$4,089,022

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Division of Standards.

7006-0060	For the operation of the division of standards	\$661,613
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 \$458,900 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	\$458,900
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 2006 shall be made at a rate sufficient to produce \$8,167,225; 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; provided further, that the department shall complete and submit a report to the joint committee on telecommunications, utilities and energy of the general court and the clerks of the senate and house of representatives no later than October 1, 2005 on the potential savings or financial gain to the NSTAR utility company before and as a result of any strike or work stoppage, and this report shall also examine the service quality index and standards, including but not limited to, safety response time, power outages, safety of the works and the public, before and as a result of any work stoppage or strike	\$8,167,225
7006-0080	For the operation of the transportation division	\$541,302

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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

State Racing Commission.

7006-0110 For the operation of the state racing commission \$2,124,351

Division of Energy Resources.

7006-1000 For the operation of the division of energy resources; provided that notwithstanding any general or special law to the contrary, the amount assessed under section 11H of chapter 25A of the General Laws shall be equal to the amount expended from this item \$1,441,404

7006-1001 For the residential conservation service program under 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 business and technology \$385,002

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 \$1,338,574

7007-0500 For the operation and maintenance of the Massachusetts Biotechnology Research Institute for the purpose of promoting the commercialization of new, academic-based research and development, and raising the scientific awareness of the communities of the commonwealth \$500,000

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 than \$200,000 shall be expended on the operation of the Massachusetts Fisheries

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Recovery Commission, not less than \$60,000 of which shall be expended for the purposes of a socio-economic study and analysis of the commonwealth's fishing industry; provided further, that not less than \$250,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998; and provided further, that \$350,000 shall be expended for a grant to the Massachusetts Alliance for Economic Development for the purpose of enhancing economic development related services, including but not limited to implementation of a statewide online site finder to assist business growth \$1,010,000

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 \$1,113,415

7007-0900 For the operation and administration of the office of travel and tourism and 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 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 the organizations shall be required, as

a condition of receiving a grant, to submit a total operating budget which identifies each source and use of operating and capital funds; provided further, that said grants 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 said office shall grant not less than \$4,000,000 to the Massachusetts International Marketing Partnership Incorporated, the business entity awarded the contract pursuant to section 60 of chapter 141 of the acts of 2003 for the express purpose of implementing the strategic marketing and promotional program to recover the commonwealth's lost international market share; provided further, that not less than \$1,000,000 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 2006 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 \$450,000 shall be expended for a grant to the Massachusetts Sports and Entertainment Partnership; provided further, that not less than \$350,000 shall be expended to enhance tourism along the South Lawrence River in the City of Lawrence; provided further, that not less than \$300,000 shall be expended for the purpose of a grant to the Greater Boston Convention & Visitors Bureau, Inc. to develop and implement, in cooperation with the Massachusetts Lodging Association, an advertising and direct mail program to promote tourism throughout the commonwealth during the winter season; provided further, that not less than \$300,000 shall be expended for the Mohawk Theatre; provided further, that not less than \$250,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that not less than \$250,000 shall be expended for the Southcoast Development Partnership for the purposes of regional tourism and economic development; provided further, that not less than \$250,000 shall be expended for the Route 9/Lakeway Business District through the Lakeway Overlay District Fund in the Town of Shrewsbury; provided further, that not less than \$250,000 be

expended for the Merrimack Valley Chamber of Commerce to establish the Merrimack Valley Chamber Technical Program; provided further, that not less than \$250,000 shall be expended for the Museum of Afro-American History located in the city of Boston; provided further, that not less than \$250,000 shall be expended for the Gloucester Adventure, Inc. for the purpose of the restoration of the NHL Schooner *Adventure*; provided further, that not less than \$200,000 shall be expended for the Bay State Games; provided further, that not less than \$200,000 shall be expended for a grant for From the Top, Inc.; provided further, that \$200,000 shall be made available to the town of Franklin for economic development; provided further, that not less than \$200,000 shall be expended to the town of Holbrook for public safety improvements and activities at the police/fire station; provided further, that not less than \$200,000 shall be expended for the Mahaiwe Theater; provided further, that not less than \$200,000, subject to 100 per cent funding match, shall be made available to the Boston Symphony Orchestra venue at Tanglewood; provided further, that not less than \$200,000 shall be provided for an economic development project at the Elco Dress Factory in New Bedford; provided further, that not less than \$185,000 shall be expended for the International Trade Assistance Center in the city of Fall River; provided further, that not less than \$150,000 shall be expended for City Stage; provided further, that not less than \$150,000 shall be expended for a child safety program in the town of Winthrop; provided further, that not less than \$150,000 shall be expended for a child safety program in the city of Revere; provided further, that not less than \$150,000 shall be expended for the Highland center for the Arts at the Cape Cod National Seashore; provided further, that not less than \$125,000 shall be expended for a historic development project at the Worcester Center for the Performing Arts; provided further, that not less than \$125,000 shall be expended for the New England Puerto Rican association; provided further, that not less than \$100,000 shall be expended for the Cape Cod Economic Development Council; 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 expended for the Old Provincial State House; provided further, that not less than \$100,000 shall be expended for an economic development project on state highway route 110 in the town of Amesbury; provided further, that not less than \$100,000 shall be expended for the Russian Community Association; provided further, that not less than \$100,000 shall be expended for the Western Massachusetts Economic Development Council for tourism and marketing purposes; provided further, that not less than \$100,000 shall be expended for the Merrimack Repertory Theatre; provided further, that not less than \$100,000 shall be expended for the Buzzards Bay Village Association; provided further, that not less than \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$75,000 shall be expended for the North End Visitor Center in the city of Boston; provided further, that not less than \$75,000 shall be appropriated to the Puerto Rican Cuatro Project, a cultural development project under the Spanish American Union, Inc of Springfield; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided further, that not less than \$60,000 shall be expended for Herman Melville's Arrowhead Museum; provided further, that not less than \$60,000 shall be expended to continue the economic development project operated by the Arlington Neighborhood Association in the city of Lawrence; provided further, that not less than \$50,000 shall be provided for the Asa Waters Mansion in the Town of Millbury; provided further, that not less than \$50,000 shall be expended for the Russian Community Association in Springfield; provided further, that not less than \$50,000 shall be expended for the Victory Theater in the city of Holyoke; provided further, that not less than \$50,000 shall be expended for the Plymouth Area Chamber of Commerce; provided further, that not less than \$50,000 shall be expended for a grant to the Salem Partnership for the purposes of hosting a statewide conference on the merits of a creative economy; provided further, that not less than \$50,000 shall be expended for the Caribbean Carnival Association; provided further, that not less than \$50,000 shall be expended for the New Bedford Art Museum; provided further, that not less than \$50,000 shall be expended

for the promotion of Boston neighborhoods through the Boston Main Streets program; provided further, that not less than \$50,000 shall be expended for the Riverside Theater Works in the Hyde Park section of the city of Boston; provided further, that not less than \$50,000 shall be expended for the Office of Community Collaborations and Program Development at the New England Conservatory of Music in the city of Boston; provided further, that not less than \$50,000 shall be expended for the Forefather Monument at Pilgrim State Park; provided further, that \$50,000 shall be expended for the Louis D. Brown Peace Institute; provided further, that not less than \$50,000 shall be expended for the Johnny Appleseed Visitors' Center; provided further, not less than \$50,000 shall be expended for the North Quabbin Woods Project; provided further, that not less than \$40,000 shall be expended for the Newburyport Economic Development Department's Jump Start Program; provided further, that not less than \$40,000 shall be expended from this item for the purpose of the operation and the promotion of the Ipswich Shuttle Bus Service; 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 the Massachusetts 54th Regiment; provided further, that not less than \$30,000 shall be expended by the town of Berkley to continue MITNS, so-called, activities; provided further, that not less than \$30,000 shall be made available for the Historic Woodcock Garrison House and One-Room School House in the town of North Attleboro; provided further, that not less than \$25,000 shall be expended for the Salisbury Chamber of Commerce; provided further, that not less than \$25,000 shall be provided for the Auburn Historical Museum in the town of Auburn; provided further, that not less than \$25,000 shall be expended to operate the Cape Cod Junior Technology Council; provided further, that not less than \$25,000 shall be expended to the Hull Lifesaving Museum for the purpose of planning a maritime trail; provided further that not less than \$25,000 shall be expended for the Sandwich Glass Museum; provided further, that not less than \$25,000 shall be expended for the Natural History Museum in the town of Brewster; provided further, that not less than \$25,000 shall be expended

for the Friends of the Quabbin, Inc; provided further, that not less than \$20,000 shall be expended for an economic development project known as the Cleveland Circle Streetscape Plan Early Action Item; provided further, that not less than \$10,000 shall be expended for the Providence and Worcester Railfan Museum in the town of Webster; provided further, that not less than \$10,000 shall be provided for the Clark Cemetery on Prospect street in the town of Auburn; 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 the office shall 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 \$20,418,282

Tourism Fund 100.0%

7007-1000 For assistance to local tourist councils under 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 the councils may expend an amount not to exceed 20 per cent of the funds appropriated in this item for the cost of administrative services \$8,000,000

Tourism Fund 100.0%

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; 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, 2006; and provided further, that the Massachusetts Technology Collaborative shall work in conjunction with the Massachusetts Health Collaborative to secure for the Outer Cape Health Services the private resources necessary to match a Federal grant for development of an electronic medical records system; and provided further, that this corporation shall assist the North Central Chamber of Commerce in the development of the Plastics/Medical Device Connections Initiative; and provided further, that the corporation shall study the creation, operation and evaluation of a pilot wireless student learning initiative at the New Boston Pilot School in the city of Boston and shall file a report detailing findings of said report to the house and senate committees on ways and means by January 15, 2006 and provided further, that the department of business and technology shall submit quarterly reports to the house and senate committees on ways and means detailing the amounts awarded and the purposes for said grants \$500,000

7007-1300 For the operation of the Massachusetts International Trade Council \$960,000
 Tourism Fund 100.0%

7007-1500 For the operation and administration of the office of minority and women business assistance; provided, that the office shall administer an electronic business certification application which shall be accessible to business applicants through use of the internet; provided further, that the office shall ensure the integrity and security of personal and financial information transmitted by electronic application; provided further, that

the office shall, using all existing available resources, provide certification services within each of the 1-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 \$1,096,135

Department of Education

7010-0005 For the operation of the department of education; provided, that the department, in collaboration with the governor's commission on gay and lesbian youth, shall allocate not less than \$75,000 for programming to ensure public schools' compliance with the board of education's recommendations for the support and safety of gay and lesbian students and the implementation of related suicide-prevention and violence-prevention efforts; provided further, that the department shall report to the legislature on the feasibility of incorporating a median income component into the current chapter 70 school funding formula; provided further, that said report shall be provided to the house and senate chairs of the joint committee on education, the chairs of the house and senate committees on ways and means, and the secretary of administration and finance, no later than September 15, 2005; provided further, that funds from this item shall be expended for the salary of a deputy commissioner who shall serve as a chief operating officer for the department, and shall have responsibility for overseeing all operational details of the department, in order to ensure that all offices and divisions within said department operate according to a common strategic vision and coordinated planning process, and that all actions, public statements and decisions of deputy commissioners, assistant commissioners, and staff are consistent with said vision, and reflect board of education policy, the goals and intent of the general court, and all applicable statutory mandates and requirements of the General Laws; provided further, that not later than November 15, 2005, the department shall submit to the secretary of administration and finance, the chairs of the house and senate ways and means committees, and the house and senate chairs of the joint committee on education a report

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on the current organization of the department, with an operational flow chart detailing responsibilities and duties of each deputy commissioner, associate commissioner, or other person with supervisory responsibility in the department; and provided further, that said report shall detail the means by which the department shall coordinate planning and operations functions, and describe the strategic vision of the department, along with a detailed implementation plan for realizing that vision \$9,597,805

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 payment for services rendered by METCO, Inc. and Springfield public schools \$17,615,313

7010-0030 For fiscal year 2006 reimbursements to certain cities, towns and regional school districts of the per pupil capital needs component included in the charter tuition amount for commonwealth charter schools, calculated under subsection (nn) of section 89 of chapter 71 of the General Laws; provided, that funds may be expended from this item to provide one time "hold harmless" grants to charter schools to ensure that no charter school receives less funding in tuition payments in fiscal year 2006 than it received in fiscal year 2005; provided further, that no funds shall be expended on said "hold harmless" grants until the per pupil capital needs component required by subsection (nn) has been fully funded; provided further, that no funds shall be expended on said "hold harmless" grants where the reduction in tuition is the result of charter school restructuring required by the board of

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	education as a condition of charter renewal; and provided further, that should additional funds be insufficient to fully fund the "hold harmless" grants, so-called, said grants may be pro-rated by the department to all eligible charter schools . . .	\$14,776,000
7010-0216	For the teacher, principal, and superintendent recruitment and retention programs established in sections 19B, 19C, and 19E of chapter 15A of the General Laws	\$1,090,123
7010-1022	For the development and implementation of certificates of occupational proficiency	\$1,100,000
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 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 \$734,400 for the state's matching grant for the CS-squared program at the Commonwealth Corporation; 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; 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; provided further, that \$250,000 shall be expended for a pilot program that targets at-risk youth, Amer-I-Can and provided further, that of this \$250,000, funds may be expended for the administration of this program in Springfield; and provided further, that not less than \$50,000 shall be expended for the Diploma Plus Program at Cape Cod Community College	\$2,019,566
7027-0019	For school-to-career connecting activities; provided, that notwithstanding any general or special law to the contrary, the	

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board of education, in cooperation with the department of 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

	job	\$4,129,687
7027-1005	For salary increases for department of youth services' teachers . . .	\$2,550,000
7028-0031	For the expenses of school age children in institutional schools under 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; provided further that the department of youth services shall continue to collaborate with the department of education in order to align curriculum at the department of youth services with the statewide curriculum frameworks and to ease the reintegration of youth from facilities at the department of youth services into regular public school settings; and provided further, that the department of education, in conjunction with, the commissioner of youth services shall submit a report on progress made to the house and senate committees on ways and means by December 1, 2005	\$7,475,183
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, 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 less than \$1,000,000 shall be expended on transition grants to expand half-day classrooms to new full-day classrooms; provided further, that not less than \$1,000,000 shall be expended on in-

creasing quality full-day grant awards for districts receiving said awards in 2005; provided further, that not later than January 15, 2006 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 include a study on how to provide universal full-day kindergarten throughout the commonwealth which shall include an estimated cost analysis for implementation of the program; 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 public schools in fiscal year 2007; provided further, that funds appropriated in this item for transition grant awards may be expended through August 31, 2006 for the purposes of transition projects scheduled for the school year beginning in September 2006; and provided further, that the department may expend not more than \$200,000 to administer the grants program established herein \$25,000,000

7030-1003 For the John Silber early literacy program to promote research based school-wide literacy education and to promote literacy among children in grades K through 3; provided, that the office of reading and language arts shall administer said early literacy grant programs to improve the quality and effectiveness of literacy education to the greatest extent possible; provided further, that not less than \$60,000 be expended for the Lawrence Learning Center and Community Development in the city of Lawrence; provided further, that not less than \$100,000 shall be expended for improvements to promote general literacy and literacy for disabled persons in the town of Braintree; provided further, that not less than \$100,000 shall be expended for the TU-LEAP Program of Boston for after-school academic and literacy achievement programs; provided further, that these early literacy education programs shall be based on a scientifically-based reading research program consistent with the federal Reading First Initiative; provided further, that \$385,000 shall be expended for JFY.net, a Jobs for Youth initiative for high technology, literacy and job skill instruction to youth and adults through

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advanced software and existing infrastructure capacity in schools and community agencies; provided further, that no more than \$50,000 shall be made available to Edvocacy of Concord to expand a school-based program in the Bourne Public Schools to detect, evaluate, and track dyslexia in students in grades K through 3; provided further, that such program shall supplement currently funded local, state and federal programs at the school or district; and 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 \$3,772,989

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; provided further, that not less than \$300,000 shall be expended for matching grants to school districts to support the funding of Reading Recovery teachers in one-to-one early intervention tutorial literacy programs; and provided further, that said programs shall provide ongoing documentation and evaluation of results \$2,700,000

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 the department; provided further, that in no case shall grants be considered an

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entitlement to a grant recipient; provided further, that the 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 per cent of the funds appropriated herein may be expended for non-grant purposes

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 \$29,322,628

7035-0007 For reimbursements to cities, towns, regional vocational or county agricultural school districts, independent vocational schools, or collaboratives for certain expenditures for transportation of nonresident pupils to any approved vocational-technical program of any regional or county agricultural school district, city, town, independent school or collaborative pursuant to section 8A of chapter 74 of the General Laws; provided that, should the amount appropriated herein be insufficient to fully fund the provisions of said section 8A, initial reimbursements made by the department of education may be pro-rated by the department to all eligible cities, towns, regional vocational or county agricultural school districts, independent vocational schools, or collaboratives; and provided further, that upon a determination by the department that the funds appropriated in this item are insufficient to meet the commonwealth's full obligation under said section 8A, the department shall, within ten days, notify the secretary of administration and finance, the house and senate chairs of the joint committee on education, and the chairs of the house and senate ways and means committees of the amount needed to fully fund said obligation \$45,000,000

7051-0015 For operating funds to distribute food for the Massachusetts emergency food assistance program \$1,600,000

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)

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	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 children shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act and in the regulations implementing 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 further, 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 2006; 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; and provided further, that the department shall select grantees for the program authorized by this item not later than March 30, 2006, 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	

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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 under 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 the department shall select school sites for programs authorized by this item no later than November 15, 2005 and shall report to the house and senate committees on ways and means on the preliminary results of these grants no later than January 9, 2006; 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 under chapters 70 and 76 of the General Laws and section 3 of this act; provided, that \$200,000 of the funds allocated from this item to the city of Lawrence by said 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; 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 \$3,288,931,062

7061-0011 For a reserve to: (1) meet extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to section 3; provided, that a municipality seeking funds from this item shall apply for a waiver from the department of revenue pursuant to the provisions 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 extraordinary increases of greater than 20 per cent in a municipality's required contribution to any of the districts to which the municipality belongs as a result of the new regional allocation methodology; provided, that said funds may be used by the municipality to reduce its contribution to said district solely for fiscal year 2006 and said reduction shall not be considered a permanent reduction in required contribution in fiscal year 2007; (3) meet expenses associated with extraordinary increases in enrollment from fiscal year 2002 through fiscal year 2006 calculated on a percentage basis for such municipalities; provided, that preference shall be given to districts with enrollment growth of greater than 10 per cent during said period; provided further, that preference shall be given to districts which received no increases in chapter 70 aid, notwithstanding said enrollment increases; (4) address the effects of reductions in per pupil chapter 70 aid between fiscal year 2004 and fiscal year 2006; provided, that preference in the awarding of such funds shall be given to districts which receive less than 20 per cent of their foundation budgets as chapter 70 aid, and which received reductions in chapter 70 aid between fiscal year 2003 and fiscal year 2004 of greater than 10 per cent; (5) assist regional school districts which, prior to fiscal year 2006, have assessed member towns using the provisions of their regional agreement, and which, in fiscal year 2006, will assess member towns using the required contributions calculated pursuant to chapter 70 of the General Laws and section 3 of this act; (6) assist towns impacted by stresses in the commercial fishing industry which receive less than 20 per cent of their foundation budget in state aid; (7) assist municipalities with median income below the state average and equalized valuation per capita above the state average; provided, that preference in the awarding of funds shall be given to municipalities with required local contributions greater than 80 per cent of their foundation budgets; (8) assist urban districts with high fixed costs and enrollment declines of greater than 3 per cent in fiscal year 2006 resulting in no increase in chapter 70 aid; (9) assist municipalities negatively impacted by shortfalls in federal impact aid for the

education of children in families employed by the federal government on military reservations located within the town's limits; and (10) assist municipalities which pay a separate and additional tax to multiple fire districts within the municipality's borders, and which have required minimum contributions in excess of 80 per cent of the district's foundation budget; provided, 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; provided further, that the department shall make not less than 80 per cent of awards from this item not later than October 15, 2005; 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 2007 \$6,870,000

7061-0012 For the reimbursement of extraordinary special education costs under section 5A of chapter 71B of the General Laws; provided, that reimbursements shall be pro-rated such that expenses of this item do not exceed the amount appropriated herein; provided further, that upon receipt by the department of education of required special education cost reports from school districts, the department shall reimburse districts based on fiscal year 2005 claims; provided further, that not more than \$9,250,000 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 \$9,250,000, not less than \$8,000,000 shall be made available to the department of mental retardation for the voluntary residential placement prevention program administered by that department; provided further, that not less than \$600,000 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 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 the program; provided further, that of this \$600,000, \$200,000 may be ex-

pended for the purposes of training teachers and students; provided further, that of this \$600,000 not less than \$25,000 shall be expended for a pilot program for Recording for the Blind and Dyslexic to provide the 10th grade math and English learning arts MCAS tests in audio digital format for the fall and spring of the 2005-2006 school year; provided further, that no funds shall be expended for said MCAS pilot program until the department of education examines all security issues related to said pilot program and certifies to the legislature that said pilot program may be carried out without jeopardizing the security of the MCAS exams; provided further, that said report shall be completed no later than November 15, 2005, and shall be forwarded to the house and senate chairs of the joint committee on education, and the chairs of the house and senate committees on ways and means; provided further, that \$300,000 shall be expended for the costs of 4 incentive, start-up grants to educational collaboratives to provide partial funding for a full-time transportation coordinator, administrative support and for the purchase of specialized transportation route planning software for the purposes of implementing a pilot program to demonstrate that transportation of students to out-of-district special education placements can be accomplished at a lower cost and with improved quality of service by delegating the planning and contracting for such transportation to education collaboratives which would be responsible for the transportation of students to all out-of-districts programs located within the pilot program collaborative catchment area; provided further, that not more than \$1,000,000 shall be expended for the monitoring and follow-up activities of the department's complaint management system, review and approval of local educational agency applications, and local school district's compliance with the part B requirements of the Individuals with Disabilities Education Act, in the provision of special education and related services to children with disabilities; provided further, that these monitoring activities shall occur in each school district in cycles of not less than 3 years; provided further, that, in order to facilitate such monitoring, the department may allocate funds from this item to item 7061-0029, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30

days prior to any transfer; provided further, that not more than \$500,000 shall be expended to administer the reimbursements funded herein; provided further, that notwithstanding section 5A of chapter 71B of the General Laws, the department, at the discretion of the commissioner, may expend up to \$3,000,000 to reimburse districts for extraordinary increases in costs incurred during fiscal year 2006 which would be reimbursable under section 5A; provided further, that reimbursements for current year costs shall be limited to school districts which experience increases of greater than 25 per cent from costs reimbursable under section 5A of chapter 71B of the General Laws and incurred during fiscal year 2005 to costs reimbursable under section 5A of chapter 71B of the General Laws and incurred during fiscal year 2006 or other cases of extraordinary hardship where special education costs increase in relationship to total district costs as the department may define through regulation or guidelines; provided further, that reimbursements for current year costs shall be allocated as one-time grants and shall not decrease reimbursements in the following fiscal year; provided further, that the department shall conduct audits of fiscal year 2005 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2006 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means no later than January 1, 2006 on the results of the audits \$201,625,262

7061-0029 For the office of educational quality and accountability established under section 55A of chapter 15 of the General Laws; provided, that not less than \$100,000 shall be expended by the office to examine schools in the districts of Boston, Lawrence, Worcester, Springfield, Lowell, Fall River, New Bedford, and Brockton for the purpose of identifying the specific practices, policies, and programs that would make urban school districts successful \$3,435,979

7061-9010 For fiscal year 2006 reimbursements to certain cities, towns and regional school districts pursuant to section 89 of chapter 71 of the General Laws \$50,100,000

7061-9200 For the education technology program \$745,343

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- 7061-9400 For student and school assessment including the administration of the Massachusetts comprehensive assessment system (MCAS) exam established by the board of education pursuant to the provisions of section 1D and 1I of chapter 69 of the General Laws 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 of 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 English shall be administered in English \$23,346,561
- 7061-9404 For 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 to 2007, inclusive, 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 said chapter 69; provided, that the department and districts shall ensure that services are available to students with disabilities; provided further, that, in awarding remediation funds, preference may be given to schools and districts at risk of or determined to be under-performing in accordance with said sections 1J and 1K of said chapter 69; provided further, that in districts with a high percentage of students scoring in level one on either the eighth grade or tenth grade MCAS exam, or in districts which are at risk of or determined to be underperforming in accordance with sections 1J and 1K of chapter 69 of the General Laws, funds may be expended on preventive remediation for students in the classes of 2007 or

2008, who failed the English or math MCAS in the eighth grade; provided further, that the purpose of this program shall be 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 academic support and college transition services to be implemented in fiscal year 2006, and operated by public institutions of higher learning or by public-private partnerships in the commonwealth, for students in the graduating classes of 2003, 2004 and 2005 who have completed high school but have not yet obtained a competency determination as defined in section 1D of chapter 69 as measured by the MCAS assessment instrument authorized by said section 1I of said chapter 69, but who are working to pass the English and math MCAS tests, obtain a competency determination, and earn a high school diploma; provided further, that for the purpose of the programs, appropriated funds may be expended through August 31, 2006 to allow for summer remediation programs; provided further, that funds shall be expended for a competitive grant program to fund 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 and One Stop Career Centers 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, and counseling programs to educate parents and high school students on post-twelfth grade remediation options; provided further, that funds shall be expended for a competitive grant program, guidelines for which shall be developed by the department of education, for intensive remediation programs, in communities with students in the graduating classes of 2003 to 2007, inclusive, who have not obtained a competency determination on either the tenth grade English or math MCAS exams; 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 pursuant to the provisions of section 11 of chapter 69, to improve performance of all student populations including, but not limited to, students with disabilities; provided further, that not more than \$1,000,000 be expended for English language acquisition professional development as part of an initiative designed to improve the academic performance of English language learners and effectively implement sheltered English immersion as outlined in chapter 386 of the acts of 2002; provided further, that \$300,000 shall be transferred to the Efficacy Institute for work in "Campaigns for Proficiency" in Springfield, Boston and Lawrence, to be used for training public school teachers and youth workers in after-school programs in methods for using assessment data to develop effective strategies to improve student performance on the MCAS; provided further, that not

less than \$60,000 shall be expended to Casa Dominicana in Lawrence; provided further, that not less than \$1,000,000 shall be transferred to JFYNetWorks, formerly Jobs for Youth, for a matching grant for the purposes of enhancing student performance on the Massachusetts Comprehensive Assessment system examination through instructional computer software; provided further, that \$50,000 shall be expended for the Astro Park Astronomy Facility at Barnstable High School; provided further, that not less than \$25,000 shall be expended for School Link Services at the Pettengill House to provide advocacy counseling, referrals, emergency assistance and prevention education programs to the children and families of both Triton Regional and Amesbury Public Schools; provided further, that not less than \$20,000 shall be expended for a Brown Eyes Blue Eyes Pilot Project, linking performance to perception to improve MCAS scores by teaching children how to recognize faulty stereotypes inherent in racism for schools in Falmouth, Mashpee, Bourne, Barnstable, and Springfield; provided further, that the department shall issue a report, no later than February 1, 2006 and annually thereafter as a condition of continued funding under this account, in collaboration with the board of higher education, describing MCAS support programs for the graduating classes of 2003 to 2007, inclusive, funded by items 7061-9404 and 7027-0019, school to work accounts, institutions of public higher education, and other sources, including federal sources; provided further, that such report shall include, but not be limited to, the number of students eligible to participate in such programs, the number of students participating in such programs, the number of students who have passed the MCAS assessment and obtained a competency determination through these programs, but not met local graduation requirements, and the number of students who have passed the MCAS assessment and obtained a competency determination through these programs and met local graduation requirements; provided further, that said report shall be provided to the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education; provided further, that the department may expend up to \$350,000 to administer programs funded herein; 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 \$10,385,000

7061-9408 For targeted intervention to schools and districts at risk of or determined to be underperforming under sections 1J and 1K of chapter 69 of the General Laws; provided, that no money shall be expended in any school or district that fails to file a comprehensive district plan pursuant to the provisions of section 1I of said chapter 69 of the General Laws; provided further, that funds may be expended on grants which allow for the implementation of whole school reform in said schools and districts; provided further, that the department shall only approve reform plans with proven, replicable results in improving student performance; provided further, that in carrying out the provisions of this item, the department may contract with school support specialists, turnaround partners, and such other external assistance as is needed in the expert opinion of the commissioner, to successfully turn around failing school and district performance; provided further, that no funds shall be expended on targeted intervention unless the department shall have approved, as part of the comprehensive district improvement plan, a professional development plan which addresses the needs of the district as determined by the department; provided further, that eligible professional development activities for purposes of this item shall include, but not be limited to: professional development among teachers of the same grade levels and teachers of the same subject matter across grade levels, professional development focused on improving the teacher's content knowledge in the field or subject area in which the teacher is practicing, professional development which provides teachers with research based strategies for increasing student success, professional development teaching the principles of data driven instruction, and funding which helps provide common planning time for teachers within a school and within the school district; provided further, that preference in the awarding of

such funds shall be given to professional development in math and English content skills; provided further, that funds from any targeted intervention grant may be used to partially offset the cost of said professional development and common planning time; provided further, that funds may be expended for the purchase of instructional materials pursuant to section 57 of chapter 15 of the General Laws; provided further, that no funds shall be expended on instructional materials except where the purchase of such materials is part of a comprehensive plan to align the school or district curriculum with the Massachusetts curriculum frameworks; provided further, that funds may be expended on leadership academies for principals and superintendents pursuant to section 58 of chapter 15 of the General Laws; provided further, that said training shall focus on expanding and increasing the capacity of the principal or superintendent to be an instructional and educational leader within their district and schools, and shall include, but not be limited to: training in effective personnel evaluation, curriculum development, with a focus on aligning the curriculum with the Massachusetts curriculum frameworks established pursuant to chapter 69 of the General Laws, school based management skills, with a focus on distributed leadership, data analysis skills that enhance the capacity of the principal or superintendent to create an environment of data driven instructional change, and techniques for developing cooperative relationships with parents and community organizations; provided further, that the department shall issue a report, no later than February 1, 2006 and annually thereafter describing and analyzing all intervention and targeted assistance efforts funded by this item; provided further, that such report shall include but not be limited to: the number of school and school districts eligible to receive such assistance, the number of students attending school in said districts, the nature and type of intervention activities funded through this item, by school and school district, the number of teachers in professional development funded in part through this item, the number of districts with curricula or professional development systems aligned with the Massachusetts curriculum frameworks, and the number that are undertaking that effort with grants funded by this item, the

number of outside vendors with whom the department has contracted to provide intervention and turnaround services, the amount each vendor has received, and the results obtained in each instance, the number of students who have passed the MCAS assessment and obtained a competency determination through these programs, before, and during the period of intervention and turnaround, and any other data relative to the successes achieved or challenges faced by the effort to turn around schools, along with any legislative or budgetary recommendations for improving the initiative and increasing the success of all intervention efforts; provided further, that said report shall be provided to the secretary of administration and finance, the senate president, the speaker of the house, the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education; provided further, that no funds shall be expended on recurring school or school district expenditures unless the department and school district have developed a long term plan to fund such expenditures from the district's operational budget; provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2006 to allow for intervention, teacher, principal and superintendent training and professional development which occurs in the summer months; provided further that not less than \$500,000 shall be expended for planning and early implementation grants to cities, towns, and regional school districts for the purpose of expanding learning time in the form of longer school days and/or school years at selected schools; provided further, that school districts may submit qualifying proposals for Expanded Learning Time planning and early implementation grants to the department no later than October 1, 2005; provided further, that to be qualifying, a proposal must contain but need not be limited to the process the district will use to create an Expanded Learning Time implementation plan and a budget necessary to create said plan and any implementation required in FY06, the rationale for expanding learning time including specific goals, and the anticipated number of schools and students that will receive expanded learning time, and letters of support for the planning process from the governing school committee, all collective bargaining units that may be involved in implemen-

tation, and any external partners including, but not limited to, community-based organizations or institutions of higher education that may participate in planning or implementation; provided further, that in approving Expanded Learning Time planning and early implementation grant applications, preference shall be given to districts with high poverty rates or a high percentage of students scoring in levels I or II on the Massachusetts Comprehensive Assessment System, those districts whose plans have the greatest potential for district-wide impact, and those districts that plan to utilize partnerships with community-based organizations and institutions of higher education; provided further, that all schools districts are eligible to apply for said grants but not less than 75 per cent of said grants shall be awarded to qualifying districts where 25 per cent or more of students are eligible for free or reduced-price meals under the federally funded school meals program; provided further, that the department shall review all qualified proposals and award planning grants not later than November 1, 2005; provided further, that not less than \$25,000 of the \$500,000 item shall be awarded to each district approved by the department in the form of an Expanded Learning Time planning and pre-implementation grant; provided further, that upon award of said planning grants each district shall create a detailed Expanded Learning Time implementation plan and submit said implementation plan to the department not later than January 15, 2006; provided further, that the department shall review all qualifying implantation plans and determine eligibility for Expanded Learning Time implementation funding not later than February 15, 2006; provided further, that the department shall only approve district implementation plans that contain a plan to convert one or more schools to expanded learning time schools such that each such school adds, on a mandatory basis for all students, no less than 30 per cent more hours of instruction and enrichment than is standard for the applying district; provided further, that the department shall only approve implementation plans that include a comprehensive restructuring of the entire school day or year to maximize the use of the additional learning time; provided further, that the department shall only approve implementation plans that in-

clude an integrated plan to provide an appropriate mix of additional teacher preparation time and additional time that includes, but is not limited to, a combination of any of the following: additional time on math, literacy, and science instruction; individual or small group tutoring; homework help; enrichment opportunities such as music, arts, sports, physical activity, and project-based experiential learning; provided further that the department shall only approve implementation plans that include a comprehensive budget that includes matching funds from the district or its partners and assumes not more than \$1,300 per pupil per year in future state appropriations of Expanded Learning Time Implementation Funds; provided further that the department shall only approve implementation plans that include evidence of support from teachers, administrators, parents, and any community-based organizations or institutions of higher education involved in implementation, and all collective bargaining units involved in implementation; provided further, that the department shall only approve implementation plans that include documentation of leadership capacity to successfully implement a longer school day or year and evidence that the district has made recent progress towards improved educational outcomes and improved district capacity; provided further, that the department shall only approve implementation plans that include a clear method of using implementation benchmarks and specific, measurable goals to annually assess the implementation of a longer school day or year and the impact of additional learning time on student learning and achievement; provided further, that in carrying out the provisions of this item, the department may expend up to \$75,000 of the \$500,000 item to administer the Expanded Learning Time grant review and approval process; provided further, that the department may, for the purpose of this item, provide technical support that includes, but is not limited to, direct services and documentation that provides examples of how to implement expanded learning time; provided further, that the department shall issue a report, not later than December 1, 2005 describing and analyzing all planning grants and estimating the Expanded Learning Time Implementation funding necessary in fiscal year 2007 to fully fund all district implementation plans under development at

that time; provided further, that said report shall include, but not be limited to, the names and total number of districts awarded planning grants, and the total number of schools and students named in the planning grant application; provided further, that said report shall be provided to the secretary of administration and finance, the senate president, the speaker of the house, the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education; provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2006 to allow for early implementation or principal or teacher training and professional development which occurs during the summer months; and provided further, that any 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 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 \$5,500,000

7061-9604 For teacher preparations \$1,787,946

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

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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, 2006 detailing the professional development activities \$1,274,231

7061-9614 For the alternative education grant program established pursuant to section 1N of chapter 69 of the General Laws, provided that the commissioner shall allocate funds for both subsections (a) and (b) of said section 1N of said chapter 69 . . \$1,250,000

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

7061-9621 For the administration of a grant program for gifted and talented school children; provided, that the funds appropriated in this item shall be in addition to any federal funds available for such program; provided further, that priority shall be given to those grant applications that address the needs of students who are identified by any of the following criteria: (1) the result of a standardized aptitude examination which is 3 or more standard deviations above the mean; (2) an evaluation by the child's teachers that the child does perform, or is capable of performing satisfactorily at 2 or more grade levels above the child's chronological age; or, (3) a score on the math or verbal Scholastic Aptitude Test by a child of no more than 13 years of age which is equal to, or greater than, the average on either test obtained by college-bound high school juniors; and provided further, that such programs may be made available by a city, town or regional school district \$500,000

7061-9626 For grants and contracts with youth-build programs for the purposes of providing comprehensive youth-build services . . . \$1,450,000

7061-9634 For a transfer of this item to the Massachusetts Service Alliance, which shall be solely responsible for administering a grant program 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 the purpose of these grants; provided further, that in order to be eligible to receive funds from this item, each public or private agency shall provide a matching amount equal to \$1 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 the 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, 2005 \$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 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; and provided further, that \$500,000 shall be expended for the Massachusetts Nursing and Allied Health Workforce Development Initiative, to develop and support strategies that increase the number of Massachusetts public higher education faculty members and students who participate in programs that support careers in fields related to nursing and allied health \$2,649,071

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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	\$417,402
7066-0015	For the community college workforce training incentive grant program established in section 15F of chapter 15A of the General Laws	\$2,900,000
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 under 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; and provided further, that this aid shall be granted after exhausting all other sources of financial support	\$1,200,000
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 Foster Furcolo 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 under the federal methodology established under 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 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 in this item, not less than \$427,351 shall be obligated for the purposes of the Massachusetts plan, under section 5C of chapter 15C of the General Laws; provided further, that the Massachusetts state scholarship office shall expend not less than \$18,923,508 to provide for matching scholarship grants to needy Massachusetts students at participating Massachusetts independent regionally accredited colleges, universities, and schools of nursing; provided further, that 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 financial assistance mentioned previously in this item 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, 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 that program; provided further, that the state scholarship office may expend monies for the public service awards as established in section 16 of chapter 15A; provided further, that the chancellor of higher education, in coordination with the Massachusetts state scholarship office, shall adopt regulations governing the eligibility and the awarding of financial assistance; 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 \$1,000,000 shall be expended on a pilot scholarship program for all early childhood educators in the commonwealth pursuant to clause (10) of section 5 of chapter 15D of the General Laws; provided, that the board of higher education, acting jointly with the board of early education and care, shall establish appropriate guidelines and application criteria for the administration of the program; provided further, that the loan shall cover the cost of tuition, fees, and related expenses as determined by the boards for up to three courses per semester in degree granting programs for early educators who are pursuing associates, bachelors, or masters level degrees to meet the teacher and program quality standards of the department of early education and care; provided further, that eligible recipients shall be early educators and providers who are working in early education and care programs in the commonwealth and who commit to teaching in early education and care programs for a term of service after graduation to be determined by the boards; provided further, that preference shall be given to applicants identified by the local councils funded by item 3000-4000 or by the regional offices funded by item 3000-2000 as highly talented providers who have already displayed commitment to early childhood education as demonstrated by longevity in the field, who do not otherwise meet the program and quality standards of the new department, but who have displayed talent and capability at working with young children that make them strong applicants for this scholarship opportunity; provided that not less than \$800,000 shall be directed to One Family Inc. for the purposes of administering and sponsoring

a scholarship program for the higher education of heads-of-household for homeless families with children under the age of 18, or who are at-risk of homelessness as determined by the federal poverty, or who have experienced homelessness within the previous 12 months; provided further that said funds shall be expended for scholarships and assistance with living expenses at accredited institutions of higher learning in the commonwealth; provided further, that each scholarship shall be matched dollar-for-dollar by One Family Inc.; provided further that the scholarship recipients in said program shall be monitored and tracked for their progress and that the results shall be reported to the commonwealth on a bi-annual basis through the board of higher education; provided further, that One Family Inc. shall work with the board of higher education on said program eligibility criteria and regulations; provided further, that One Family Inc. shall submit a report to the joint committee on ways and means no later than January 15, 2006; provided further, that said report shall include the number of applications for said grants in fiscal year 2006, number of awards granted, amount of said awards and program projections for fiscal year 2007; 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 or independent 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 paraprofessionals in the public schools of the commonwealth for a minimum of 2 years before 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 a period determined by the board of higher education, in the public schools of the commonwealth upon graduation and certification pursuant to section 38G of chapter 71 \$84,673,454

7077-0023 For a contract with the Tufts School of Veterinary Medicine; provided, that funds appropriated in this item shall be expended under 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 the school shall work in consultation with the Norfolk County Agricultural School on veterinary programs \$4,054,000

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 not less than \$500,000 shall be expended in fiscal year 2006 for the University of Massachusetts at Amherst Cranberry Station at Wareham; provided further, that such funds shall be expended under a plan reviewed and recommended by the University of Massachusetts at Amherst Cranberry Experiment Station Board of Oversight; provided further, not less than \$66,000 shall be expended for the state cranberry bog renovation at the University of Massachusetts at Amherst Cranberry Station at Wareham; provided further, that not less than \$500,000 shall be expended for the Center for Portuguese Studies to operate at the University of Massachusetts at Dartmouth; provided further, that not less than \$50,000 shall be expended for the UMASS Dartmouth Center for Business Research; provided further, that not less than \$380,000 shall be expended for the School for Marine Environmental Science Technology and Fisheries to operate at the University of Massachusetts at Dartmouth; provided further, that the sum expended for the UMass Extension in fiscal year 2006 shall be adjusted only in

direct proportion to university budget adjustments to other academic programs of the University of Massachusetts at Amherst; provided further, that such funds shall be expended in accordance with a plan reviewed by the UMass Extension board of public overseers; provided further, that not less than \$50,000 shall be expended for the 4-H program; provided further, that not less than \$250,000 shall be expended for labor studies programs at the Amherst, Boston, Dartmouth and Lowell campuses; provided further, that funding for the William Joiner Center for the Study of War and Social Consequences shall be funded at an amount not less than was allocated in the previous fiscal year; provided further, that not less than an additional \$30,000 shall be appropriated for the Hispanic Writers in the Schools program; provided further, that not less than \$368,000 shall be expended for the Maurico Gaston Institute for Latino Community Development and Public Policy at the University of Massachusetts at Boston; provided further, that not less than \$30,000 shall be expended for the Grace Grossman Inner-City Youth Collaborative at the University of Massachusetts Field Station on Nantucket; provided further, that not less than \$100,000 shall be expended for the Sustainable Urban Redevelopment Program at the University of Massachusetts at Lowell; and provided further, that not less than \$350,000 shall be expended for the William Monroe Trotter Institute at the University of Massachusetts at Boston \$408,820,034

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 \$1,240,217

7100-0350 For an assessment at the Toxics Use Reduction Institute on the feasibility of adopting chemical or technological alternatives for the following toxic or hazardous substances: lead, formaldehyde, perchloroethylene, hexavalent chromium, and di-(2 ethylhexyl)phthalate (DEHP); provided, that the assessment shall, for each named toxic or hazardous substance, identify: (1) significant uses of the toxic substance in manufacturing, consumer products and any other applications; (2) potential human health and environmental impacts; and (3) any alternative chemicals or technologies, both proven and emergent, and an analysis of their potential

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to serve as substitutes for any of the toxic or hazardous substances listed above, which shall include a assessment of: (a) specific applications of any alternative chemical or technology; (b) potential impacts on the environment, human health, workers, employment level and economic competitiveness of the commonwealth from adopting and implementing any alternative chemical or technology as substitutes; (c) the economic opportunities or feasibility of adopting and implementing any alternative chemical or technology as a substitute including, but not limited to, consideration of the potential effects on capital, operating and production unit costs, and product price, to result from the substitution; and provided further, that the Institute shall report its findings to the joint committee on environment, natural resources and agriculture by July 1, 2006 \$250,000

7100-0500 For the operation of the board of higher education's Commonwealth College honors program at the University of Massachusetts at Amherst \$3,430,000

7100-0700 For the operation of the office of dispute resolution at the University of Massachusetts at Boston under section 46 of chapter 75 of the General Laws \$166,440

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 \$34,153,292

7110-0100 For Fitchburg State College \$24,213,899

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 \$130,000 shall be expended for the operation of the commonwealths' global education centers \$20,541,080

7113-0100 For the Massachusetts College of Liberal Arts \$12,309,513

7113-0105 For the Massachusetts College of Liberal Arts for capacity building at the Massachusetts College of Liberal Arts in conjunction with a pilot wireless learning initiative in conjunction with the Massachusetts Technology Collaborative; provided, that not less than \$100,000 shall be expended for the assessment and evaluation of the higher education resources

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available to residents of Berkshire County	\$350,000
7114-0100 For Salem State College	\$32,501,837
7114-0101 For a reserve for the operation and maintenance costs associated with the acquisition of the GTE/Sylvania property located in the city of Salem	\$701,383
7114-0105 For the aquaculture program at Salem State College established under section 274 of chapter 38 of the acts of 1995	\$200,000
7114-0106 For the second degree nursing program at Salem State College	\$915,900
7115-0100 For Westfield State College	\$20,184,505
7116-0100 For Worcester State College	\$20,501,687
7116-0101 For the Latino Education Institute at Worcester State College	\$200,000
7117-0100 For the Massachusetts College of Art	\$11,167,184
7118-0100 For the Massachusetts Maritime Academy; provided further, that \$325,000 shall be expended for the development of an alternative energy source with Massachusetts Technology Collaborative	\$11,107,771

Community Colleges.

7502-0100 For Berkshire Community College	\$8,226,345
7503-0100 For Bristol Community College	\$13,687,490
7504-0100 For Cape Cod Community College	\$9,829,611
7504-0101 For the operation of an environmental technology, education, and job training partnership through Cape Cod Community College; provided, that the college shall coordinate the partnership 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	\$124,438
7505-0100 For Greenfield Community College	\$8,062,547
7506-0100 For Holyoke Community College	\$15,973,761
7507-0100 For Massachusetts Bay Community College	\$12,286,568
7508-0100 For Massasoit Community College	\$17,407,014

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7509-0100	For Mount Wachusett Community College; provided, that \$100,000 shall be expended for the Latino education and family development program	\$10,427,486
7510-0100	For Northern Essex Community College	\$16,554,154
7511-0100	For North Shore Community College, including the post-secondary programs of the Essex Agricultural and Technical Institute operated by North Shore Community College	\$17,638,434
7511-0101	For the establishment and administration of the public policy institute and resource center at North Shore Community College	\$250,000
7512-0100	For Quinsigamond Community College	\$12,974,525
7514-0100	For Springfield Technical Community College	\$20,720,495
7514-0102	For the Massachusetts Center for Telecommunications and Information Technology through the Springfield Technical Community College Assistance Corporation, as established by section 125 of 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	\$9,266,398
7515-0120	For the operation of the Reggie Lewis Track and Athletic Center at Roxbury Community College	\$946,000
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 \$529,843 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, and other special athletic events, conferences, meet-	

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ings, and programs; and provided further, that only expenses for contracted services associated with these events shall be funded from this item \$529,843

7516-0100 For Middlesex Community College; provided, that the Federal Building on the Lowell campus of Middlesex Community College be designated and known as the Brad Morse Building in honor of the late Frank Bradford Morse, former congressman and undersecretary of the United Nations, and that suitable markers bearing such designation be erected . . . \$16,979,751

7516-0200 For the Bay State Reading Institute; provided, that the program shall be administered under contract to Middlesex Community College in programmatic collaboration with Fitchburg State College; provided further, that the Institute shall provide literacy based intervention in schools and districts at risk of or determined to be underperforming in accordance with sections 1J and 1K of chapter 69 of the General Laws; provided further, that preference in the awarding of said funds shall be given to schools and districts with a high percentage of minority or low-income students; provided further, that such school-wide literacy-based intervention programs shall be based on effective, research-based instruction in reading, as called for in Reading First; provided further, that in its evaluation of applications for said initiative, the executive director of said initiative may take into consideration schools' cumulative grade 3 MCAS scores; provided further, that such school-wide literacy-based intervention programs shall provide for the evaluation and tracking of all students' reading and writing skills at least annually, shall include measurable goals and benchmarks, shall be led by a school-based planning team which includes teaching faculty and the school principal, shall provide for the training of teachers in effective, research-based 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 said initiative shall require that participating schools engage in frequent assessment of the progress of individual students, including diagnostics to pin-point the source of difficulty for struggling students, use small-group, student-centered instruction for a substantial part of the school day in order to

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allow teachers to meet the needs of individual students and differentiate instruction to help every student reach his or her potential, use research-based interventions that address the particular needs of struggling students, focus on literacy instruction, including writing, across the curriculum, monitor progress frequently to make sure that the strategies used with these students are working, and seek out additional funding for after-school time and for substitutes to give teachers an opportunity to plan together, to take a leadership role in implementing change, and to meet with and observe their peers in partner schools; and provided further, that funds appropriated in this item for said initiative may be expended through June 30, 2007 \$1,000,000

- 7518-0100 For Bunker Hill Community College; provided, that \$108,000 shall be obligated for the life focus center \$17,697,906
- 7520-0424 For a health and welfare reserve for eligible personnel employed at the community and state colleges \$3,850,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.

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 not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General, 1 of whom shall be a representative of organized labor and 1 of whom shall be a representative of management and chapters 268A and 268B of the General Laws shall not apply to members of the commission who are not otherwise subject to said chapters 268A and 268B; provided, further, that the commission shall not be subject to sections 11A and 11A½ of chapter 30A of the General Laws; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disas-

ter contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response; provided further, that the commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for the operation of the commission \$2,300,856

General Fund 15.0%

Highway Fund 85.0%

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 notwithstanding chapter 172 of the acts of 2004, any community earmarked to receive community policing funds in item 8000-0010 of section 2 of chapter 26 of the acts

of 2003, including funds allocated by section 67 of chapter 140 of the acts of 2003 or in item 7003-0702 of section 2 of chapter 149 of the acts of 2004, shall receive 100 per cent of the amount so earmarked in fiscal year 2006; provided further, that no community shall receive a grant in fiscal year 2006 which is less than that received in fiscal year 2003; provided further, that \$250,000 shall be made available to municipalities specified under item 8100-0000 to curb gang-related activities; provided further, that the secretary of public safety shall distribute the monies from the preceding proviso through a competitive grant program that gives preference to applications that demonstrate a commitment to multi-jurisdictional collaborative strategies to deal with curbing gang-related activities; provided further, that \$80,000 shall be provided for community policing in Newburyport; provided further, that not less than \$25,000 shall be made available for the safe use of the Neponset river bicycle path in the town of Milton; provided further, that \$47,000 shall be provided for community policing in Swampscott; provided further, that \$83,920 shall be provided for community policing in Framingham; provided further, that \$20,000 shall be provided for community policing in Revere; provided further, that \$165,000 of the grants awarded to Boston shall be provided for community policing in the Dudley square section of Roxbury in the city of Boston; provided further, that \$240,000 of the grants awarded to Boston shall be provided for community policing in West Roxbury and Hyde Park; provided further, that \$38,000 shall be provided for community policing in Falmouth; provided further, that \$19,200 shall be provided for community policing in Kingston; provided further, that \$19,200 shall be provided for community policing in Pembroke; provided further, that \$100,000 shall be provided for community policing in Plymouth; provided further, that \$38,000 shall be provided for community policing in Plympton; provided further, that \$50,000 shall be provided for community policing in Sandwich; 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 shall not be expended on food and beverages, recruit training academy tu-

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ition, salaries and benefits for non-community policing personnel and payments for non-related overtime; and provided further, that, not later than March 15, 2006, 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 grant recipients and descriptions of these grants

		\$21,271,035
8000-0040	For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers	\$46,092,122
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
8000-0202	For the purchase and distribution of sexual assault evidence collection kits	\$80,000
8000-0619	For the distribution of grants for city and town student awareness of fire education programs, to be known as S.A.F.E programs, which shall include information about the fire risks caused by smoking; provided, that grants awarded by the executive office of public safety to a municipality under the program shall, when applicable, be in an amount not less than the amount of the grant each such municipality received in fiscal year 2000	\$1,078,666

Office of Chief Medical Examiner.

8000-0105	For the operation of the office of the chief medical examiner established pursuant to chapter 38 of the General Laws; provided, that not less than \$850,000 shall be expended for toxicology testing and results	\$6,542,664
8000-0106	For the operation and related costs of the state police crime laboratory; provided, that the analysis of narcotic drug synthetic substitutes, poisons, drugs, medicines, and chemicals shall be funded in this item in order to support the law enforcement efforts of the district attorneys, the state police and municipal police departments; provided further, that the agency shall contract with a public institution to conduct testing for criminal cases; provided further, that the agency shall enter into agreements with the various district attorneys to provide forensic services for criminal cases brought forth by the commonwealth; and provided further, that the practices and	

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procedures of the state police crime laboratory shall be informed by the recommendations of the Forensic Sciences Advisory Board \$12,199,007

8000-0122 The office of the chief medical examiner may expend for its operations an amount not to exceed \$1,000,000 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 \$1,000,000

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 \$3,597,380

8000-0225 The sex offender registry board may expend an amount not to exceed \$750,000 from revenues 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 the 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 to 15, inclusive, of chapter 123A of the General Laws \$750,000

Criminal History Systems Board

8000-0110 For the operation of the criminal history systems board; provided, that the board shall fund 1 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; 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; provided further, that the board shall, not later than September 30, 2005, adopt regulations to: a) assure that the distribution of criminal offender record information relates to the individual for whom the request has been made; b) afford practical assistance in corrections to a criminal offender record information report to an individual who submits evidence to the board that any charges in a criminal offender record information report distributed by the board and purportedly relating to that individual, in fact, do not relate to that individual; c) limit the distribution of criminal offender record information to conviction data and data regarding any pending criminal charge, except as otherwise authorized by law; and d) require that any entity other than a criminal justice agency that receives a criminal offender record information report from the board as to an individual and, as a result of that report is inclined to make an adverse decision as to the individual, shall, before making a final decision, afford the individual an opportunity to dispute the accuracy and relevance of the criminal offender record information report; and provided further, that not later than January 1, 2006, the board shall file a report with the house and senate committees on ways and means detailing the steps the board has taken to implement the preceding proviso and the success of those steps in improving the accuracy of the criminal offender record information system \$2,826,982

Highway Fund 50.0%
 General Fund 50.0%

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

8000-0190 For a retained revenue account for the criminal history systems board; provided, that the board may expend not more than \$185,000 from fees collected for criminal offender record information requests; provided further, that for the purpose of accommodating timing discrepancies between the receipt of

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	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
8000-1122	For the telecommunications and information technology costs of the criminal history systems board; provided, that no funds provided in this item shall be expended in the KK object class	\$3,117,681

Department of State Police

8100-0000 For the administration and operation of the department of state police; provided, that costs associated with the 77th and 78th state police classes shall be funded from this item; provided further, that the department shall expend funds from this item for the purpose of maximizing federal grants for the operation of a counter-terrorism unit; provided further, 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 department of conservation and recreation; 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 at no cost to, or compensation from, that office; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal

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year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2006; provided further, that not less than \$1,050,000 shall be expended to curb gang-related activities in the cities of Boston, Brockton, Chelsea, Fall River, Fitchburg, Holyoke, Lawrence, Lowell, Lynn, New Bedford, Revere, Somerville, Springfield and Worcester; provided further, that \$100,000 shall be expended for the SCARR program; provided further, that not less than \$50,000 shall be expended for patrols in Berkshire county; provided further, that \$50,000 shall be expended for patrols in the Myles Standish state park in the town of Plymouth; provided further, that \$75,000 shall be expended for the 5-A program in the city of Springfield; and provided further, that the department may expend funds from this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the municipal police training committee and the criminal history systems board; and provided further, that not less than \$62,400 shall be expended for the state police-South Yarmouth to prevent accidents and expedite traffic flow in the town of Yarmouth

\$211,186,780

Highway Fund 88.20%
General Fund 11.80%

8100-0006 For private police details; provided, that the department may expend up to \$13,500,000 in revenues collected from fees charged for private police details and for the costs of administering such details; and provided further, that notwithstanding any general or special law to the contrary, the department may incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year 2006 to be charged to this item in an amount not to exceed the lower of this authorization or the most recent revenue estimate as 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 2006

\$13,500,000

8100-0007 For the overtime of State police officers, including the operation of the drug enforcement task force; provided, that the department shall furnish, on a quarterly and annual basis, a report to the house and senate committees on ways and means outlining by category, division and cost in which overtime hours were worked; and provided further, that the report shall

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also include a calculation reviewing the reduced number of overtime hours worked and savings to the department resulting from the addition of the 77th, 78th, and 79th state police classes \$13,010,782

Highway Fund	88.20%
General Fund	11.80%

8100-0011 The department 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 2006, the superintendent 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 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 the superintendent 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

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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 the superintendent 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 any general or special law to the contrary for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not exceed the lower of this authorization or the most recent revenue estimate \$3,600,000

Highway Fund 100.0%

8100-0012 The department of state police may expend for the costs of security services provided by state police officers, including overtime and administrative costs, an amount not to exceed \$1,000,000 from fees charged for these services; provided, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system \$1,000,000

8100-0020 The department may expend an amount not to exceed \$150,000 in fees charged for the use of the statewide telecommunications system for the maintenance of the system \$150,000

8100-0101 The department of state police may expend for the Governor's Auto Theft Strike Force an amount not to exceed \$368,000 from fees for services performed through the auto etching program and from assessments upon the insurance industry . . . \$368,000

8100-0515 For the training and related costs of additional state police recruit training troops \$4,418,246

Municipal Police Training Committee

8200-0200 For the operation of veteran, reserve and in-service training programs conducted by the municipal police training committee; provided, that the committee 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 3 day training conference on management, legal and leadership issues; provided further, that under no circumstances shall any expenditures authorized by this item be charged to item 8200-0222; provided further, that not less than \$50,000 shall be expended for the purpose of a feasibility study of a multi-use public safety structure in the town of Paxton; provided further, that not less than \$25,000 be provided to the Municipal Police Training Academy located in the town of Boylston for the purpose of increased rental, maintenance and utility costs to be paid to the town of Boylston; 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 \$3,316,478

8200-0222 The committee may collect and expend an amount not to exceed \$1,363,500 for the purposes of providing training to new recruits; provided, that the committee shall charge \$2,300 per recruit for the training; provided further, that notwithstanding any general or special law to the contrary, the committee shall charge a fee of \$2,300 per person for training programs operated by the committee for all persons who begin training on or after July 1, 2005; provided further, that the fee shall be retained and expended by the committee; 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 committee 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 the municipality or the person has provided the fee in full to the committee; 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 committee 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 the 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 committee 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 2005 and 2006; provided further, that the report shall be submitted to the house and senate committees on ways and means no later than January 1, 2006; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the committee 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 . . . \$1,363,500

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, 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 for 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 \$1,099,359
- 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 employ not less than 46.5 full-time equivalent elevator inspectors, 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 object class of this item; provided further, that such additional engineer inspector position shall be in addition to any such positions added during fiscal year 1995; provided further, that the division shall develop reasonable rules or promulgate regulations for the granting of hardship fee exemptions to certain owners or persons in control of a building or domicile in which an elevator is operated; provided further, that the division shall report to the house and senate committees on ways and means on the elevator inspection backlog not later than October 1, 2005; provided further, that the division shall develop and maintain an electronic database that shall include, but not be limited to, the location and a categorical classification of buildings in which

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inspections are conducted; and provided further, that the division shall inspect all elevators in the state house and the McCormack office building \$5,062,854

8315-1020 The department of public safety may expend not more than \$1,700,000 in revenues collected from fees for annual elevator and amusement park ride inspections; provided, that funds shall be expended for the operation of the department and for the purposes of addressing the existing elevator inspection backlog; provided further, that the department shall make efforts to employ inspectors that will perform overnight and weekend inspections as their regular work shift; 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 \$1,700,000

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 payment 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; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated

in this item for 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 appropriated in this item 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 most recent annual statement on file with the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, funds scheduled in the PP object class, pursuant to section 27 of chapter 29 of the General Laws for this item in fiscal year 2006 shall not be transferred to any other object class 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 \$100,000 shall be expended to Norfolk County for the purpose of the establishment of the Norfolk County dispatch center at the Massachusetts Hospital School in Canton; provided further, that the expenses of the fire safety commission shall be paid from this item; provided further, that \$25,000 shall be expended for the costs of operating the fire starters program by the Plymouth county juvenile court; and 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 \$10,323,098

8324-1101 For the costs of the department for the enforcement of underground storage tank compliance standards set forth in sections

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38B to 38I, inclusive, of chapter 148 of the General Laws and the rules and regulations promulgated pursuant thereto \$106,240

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 the General Laws \$8,606,736
Highway Fund 100.0%

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 chapter 30 of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades; and provided further, that the adjutant general shall maintain a roster of Massachusetts veterans as directed by section 15 of chapter 33 of the General Laws \$5,451,741
8700-1140 The state quartermaster may expend an amount not to exceed \$400,000 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 \$400,000

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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	\$997,301
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 apportioning such assessments among such licensees; and provided further, that such assessments shall be paid during the current fiscal year as provided by the department	\$388,855
8800-0200	For the Seabrook nuclear safety preparedness and radiological emergency response plan evaluations program; provided, that the cost of the program, including associated fringe benefits and indirect costs, 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 the department of telecommunications and energy shall develop an equitable method of apportioning such assessments among the licensees; provided further, that such assessments shall be paid during the current fiscal year as provided by the department; 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 the nuclear power plant; provided, that the cost of this 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 the department of telecommunications and energy shall develop an equitable method of apportioning such assessments among the licensees; provided further, that such assessments shall be paid during the current fiscal year as provided by the department; 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; provided further, that not less than \$75,000 shall be expended for the upgrading and installation of updated monitoring equipment for C-10 of Newburyport this expense shall be apportioned according to the formula stated above; and provided further, that the department shall report to the house and senate committees on ways and means not later than March 1, 2006 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 \$165,356

Department of Correction

8900-0001 For the operation of the commonwealth's department of correction; provided, that the department shall expend not less than \$1,010,500 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 house and senate 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 house and senate 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 \$200,000 shall be provided for the Aid to Incarcerated Mothers organization; provided further, that not less than \$40,000 shall be provided for the Dismas House in the city of Worcester; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction; 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; and provided further, that not less than \$100,000 be allocated to the Center for Women in Politics and Public Policy at the University of Massachusetts, Boston to conduct a comprehensive study of resources and best practices that develop and strengthen the family connections of women inmates and their children \$430,966,325

8900-0010 For prison industries and farm services \$2,783,521

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 \$3,000,000 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 \$3,000,000

County Corrections

8910-0000 For a reserve to fund county correctional programs; provided, that 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 in this item shall be in addition to and contingent on item 1599-7092; provided further, that funds made available to Plymouth county may 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 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 object class 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 no sheriff shall purchase any new vehicles or major equipment in fiscal year 2006 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, upon notification to the county government finance review board; provided further, that notwithstanding 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 the revenues shall be retained by the sheriffs not subject to further appropriation for use in a canteen fund; 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 the daily count sheet for county facilities, 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, 2005, each county sheriff shall submit a final spending plan for fiscal year 2006 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 2005, 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, 2005; provided further, that on or before September 15, 2005, the county government finance review board shall have approved final fiscal year 2006 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, 2005; provided further, that such budgets shall include distribution schedules for the final 2 quarters of fiscal year 2006 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 2006, 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 2005 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 2006, 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 2006 Suffolk county correction operating budget as approved by the county government finance review board; provided further, that notwithstanding any general or special law to the contrary, the deputy commissioner of local services shall certify on or before May 15, 2006 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, the 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, 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, 2005, the deputy commissioner shall report all such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year 2006, notwithstanding section 20A of chapter 59 of the General Laws, any county except Suffolk and Nantucket may increase its county tax for the 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

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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; 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, 2005 \$140,260,963

8910-0002 For the administration of a sex offender warrant unit program in the Barnstable county sheriff's office; provided, that the unit shall support the regional cape cod sex offender management task force, provide address verification and maintain a regional sex offender database for local law enforcement \$152,000

8910-0003 For 2 regional behavioral evaluation and stabilization units to provide forensic mental health services within existing physical facilities for incarcerated persons in the care of correctional facilities in the commonwealth; provided, that 1 unit shall be located in Hampden county to serve the needs of incarcerated persons in the care of Berkshire, Franklin, Hampden, Hampshire, and Worcester counties; provided further, that 1 unit shall be located in Middlesex County to serve the needs of incarcerated persons in the care of Barnstable, Bristol, Dukes, Essex, Nantucket, Middlesex, Norfolk, Plymouth, and Suffolk counties; provided further, that the services of the units shall be made available to incarcerated persons in the care of the department of correction; provided further, that the Massachusetts sheriffs' association, in conjunction with the department of correction, shall prepare a report that shall include, but not be limited to: a) the number of incarcerated persons in facilities located in counties that were provided services in each unit; b) the number of incarcerated persons in department of correction facilities that were provided services in each unit; c) the alleviation in caseload at Bridgewater state hospital associated with fewer incarcerated persons in the care of counties being attended to at the hospital; and d) the estimated and projected cost-savings in fiscal year 2006 to the sheriff departments and the department of correction associated with the regional units; provided further, that the report shall be submitted to the house and senate committees on ways and means no later

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	than March 15, 2006; and provided further, that the department of mental health shall maintain monitoring and quality review functions of the units	\$2,600,000
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 2006; provided, that the 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	\$2,647,829

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 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, 2005; and provided further, that \$88,000 shall be expended for a re-entry initiative program within the Hampden sheriff's department	\$55,164,711
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 Worcester 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, 2005	\$41,098,321
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 Middlesex county; provided, that the sheriff shall report to the house and	

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senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2005 \$49,641,858

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 Franklin 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, 2005 \$6,264,939

8910-0110 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 Hampshire 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, 2005; provided further, that \$225,000 shall be expended for the lease payments for modular units located at 205 Rock Hill road in the city of Northampton \$10,874,732

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 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 the county starting not later than August 1, 2005 \$13,112,020

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 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 therefore as reported in the state accounting system; and provided further, that all expenditures from this

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	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 \$1,300,000 from revenues received from federal inmate 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 therefor as reported in the state accounting system	\$1,300,000
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	\$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 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 the county starting not later than August 1, 2005	\$40,534,727
8910-0888	For a prison industries revenue retention account for the Franklin sheriff's department; provided, that the department may expend any amount not to exceed \$100,000 from revenues collected from the sale and production of printed materials manufactured at the sheriff department's print shop; 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	\$100,000
8910-1000	For a prison industries revenue retention account for the Hampden sheriff's department; provided, that the department	

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may expend any amount not to exceed \$710,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities, reimbursement for community service projects 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 \$710,000

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 operation 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 and federal overtime reimbursements; provided, that \$312,000 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

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- 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 thereof 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 \$2,000,000 from revenues received from federal inmate reimbursements; provided, that \$150,000 from the reimbursements shall not be available for expenditure and shall be deposited quarterly into the General Fund before the retention by the department of any of these revenues as certified by the comptroller; provided further, that the quarterly payments shall total \$600,000 in fiscal year 2006; provided further, that said sheriff may expend from this item costs associated with joint federal and state law enforcement activities from federal reimbursements received; 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 \$2,000,000
- 8910-7101 For the operation of the Massachusetts sheriffs' association; provided, that the sheriffs shall appoint persons to serve as executive director, assistant executive director and research director and other staff positions as necessary 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 executive director of the association shall submit a report that shows the amounts of all grants awarded to each sheriff in fiscal year 2006; and provided further, that the report shall be submitted

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to the house and senate committees on ways and means not later than February 1, 2006 \$344,300

Parole Board

8950-0001 For the operation of the parole board \$13,436,481
8950-0002 For the victim and witness assistance program of the parole board in accordance with chapter 258B of the General Laws \$286,710
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 \$600,000 from revenues collected from fees charged for parolee supervision; provided, that the parole board shall file a report with the house and senate committees on ways and means not later than February 1, 2006, which shall include, but not be limited to, the number of parolees participating in the program and the reincarceration rate of participating parolees \$600,000

EXECUTIVE OFFICE OF ELDER AFFAIRS.

9110-0100 For the operation of the executive office; provided, that the secretary shall continue to support community care ombudsman services \$1,820,633
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 \$247,217
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 \$600,000 shall be made available for the operation of the pharmacy outreach program established by section 4C of said chapter 19A; 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 section 39 of

chapter 19A, shall be the payer 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 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 2006 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; provided further, that the department shall file any and all legislation required to implement such actions for review and analysis by the General Court; provided further, that the department shall take steps for the coordination of benefits with the Medicare prescription drug benefit created pursuant to the federal Medicare Prescription Drug Improvement and Modernization Act of 2003, to ensure that Massachusetts residents take advantage of said benefit; and provided further, that the department shall provide assistance for prescription drug costs to enrollees who qualify for Medicare Part D as well as assistance for premiums, deductibles, payments, and co-payments required by the Part D or Medicare Advantage plans the secretary of elder affairs shall not implement any cost sharing increases to Prescription Advantage, and any and all prescription drug benefits provided to enrollees shall be the same as those provided to Prescription Advantage enrollees in fiscal year 2005; provided further, that there shall be an open enrollment period, lasting not less than 1 month and not more than 2 months, that will begin not later than May 15, 2006; provided, that the open enrollment shall be preceded by at least 30 days of advance public notice and marketing; provided further, that during the open enrollment period, individuals shall be enrolled in the program in the order in which the program receives their completed application; and provided further, that a person will also be eligible to enroll in the program at any time within a year of reaching age 65 . . . \$92,249,126

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; provided further, that the executive shall collect income data on persons receiving services provided in this item; provided further, that the executive office shall submit a report to the house and senate committees on ways and means detailing the population served by this item delineated by both 2005 federal poverty line income levels and 2005 social security income standards; provided further, that the report shall be submitted not later than February 1, 2006; and provided further, that the executive office shall submit a report to the house and senate committees on ways and means which shall include the number of individuals on a waiting list for these services on October 1, 2005, compared to the number of individuals on a waiting list on July 1, 2005; and provided further, that the report shall be submitted not later than October 15, 2005 \$42,015,213

9110-1604 For the operation of the supportive senior housing program \$1,942,371

9110-1630 For the operation of the elder home care program, including contracts with aging service access points or other qualified entities for the home care program, 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 of-

... fice 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 2006 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; provided further, that not less than \$75,000 shall be made available for a pilot program for home health care, to be administered by Community Parish Nursing in the town of Reading and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated in this item to item 9110-1633 for case management services and the administration of the home care program \$98,584,945

9110-1633 For the operation of the elder home care case management program, including contracts with aging service access points, 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 \$38,627,967

9110-1635 For a one-time rate add-on for wages, compensation and/or salary and associated employee-related costs to personnel providing homemaker and personal care homemaker services to elderly clients under items 9110-1500, 9110-1630, and 4000-0600 . . . \$3,900,000

9110-1636 For the elder protective services program, including protective services case management, guardianship services, the statewide elder abuse hotline, and the elder-at-risk program;

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	provided, that not less than \$800,000 shall be expended for money management services	\$13,656,546
9110-1660	For congregate and shared housing services for the elderly; provided, that not less than \$50,000 shall be expended for the congregate housing services at the Tuttle House Facility in Dorchester; and provided further, that not less than \$150,000 shall be allocated to the Committee to End Elder Homelessness, Inc.	\$1,324,435
9110-1700	For residential assessment and placement programs for homeless elders	\$250,000
9110-1900	For the elder lunch program; provided, that not less than \$40,000 shall be expended for a youth/elder outreach position at the Roche Family Community Center in West Roxbury; provided further, that not less than \$15,000 shall be expended for the Grandparents as Parents Initiative	\$5,237,000
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	\$7,000,000

LEGISLATURE.

Senate.

9500-0000	For the operation of the senate	\$18,050,647
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House of Representatives.

9600-0000	For the operation of the house of representatives	\$32,678,401
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Joint Legislative Expenses.

9700-0000	For the joint operations of the legislature	\$6,767,859
9700-0100	For a special commission on after school and out of school time; provided, that funds shall be expended from this item for consultants, facilitators, research assistance, and the purchase of needed services for said commission; provided further, that said working group on after school and out-of-school time shall undertake a study and make recommendations on how	

to better coordinate, expand, finance, and improve accessible, affordable, quality out-of-school time programming for school age children in all settings; provided further, that said working group shall consist of: 1 member appointed by the speaker of the house of representatives, 1 member appointed by the senate president, the chairs of the house and senate committees on ways and means or their designees, the house and senate chairs of the joint committee on education or their designees, the house and senate chairs of the joint committee on children and families or their designees, the commissioner of the department of early education and care, the commissioner of the department of education, the commissioner of the department of public health, 1 member chosen by each of the following organizations: Massachusetts 2020; the United Way of Massachusetts Bay; the Massachusetts Association of School Committees; the Massachusetts Association of School Superintendents; the Massachusetts Association of Elementary School Principals; the Massachusetts Association of Regional Schools; the Massachusetts Teachers Association; the Massachusetts Federation of Teachers; the Massachusetts Parent-Teacher Association; the Massachusetts Association of Day Care Agencies; the Massachusetts Independent Child Care Organization; the Massachusetts School-Age Coalition; the Massachusetts Community Action Program; the Massachusetts Child Care Resource and Referral Agencies Network; the YMCAs of Massachusetts; Parents Alliance for Catholic Education; Parents United for Child Care; or its successor organization; 1 person chosen by the co-chairs who shall be a representative of family child care; 1 member who shall be chosen by the co-chairs who shall be a representative of non-public schools; and no fewer than 6 representatives selected by the Massachusetts Afterschool Partnership, with consideration of the broad constituency of out of school time, including providers, educators, parents of school-age children, advocates for school-age children's services, business, community and religious leaders, representatives of higher education, law enforcement officials, philanthropic leaders, and individuals with knowledge and experience in the fields of out-of-school time; provided further, that the senate president and speaker of the house shall appoint the co-chairs

of the working group; provided further, that the chairs of the working group may expend funds from this item for services the chairs find necessary to conduct the study and to support the timely completion of its report; provided further, that the working group shall consider settings including, but not limited to, public and private out-of-school time programs located in schools and in community-based organizations and programs in non-public schools; provided further, that in carrying out its study, the working group shall advise the general court, the department of early education and care, the department of education and other administrative agencies who work with school age children to ensure that there is a continuity of services for children as they grow and develop and to avoid duplication of effort as these agencies continue to make administrative and programmatic improvements; provided further, that in carrying out its study, the working group shall evaluate different age populations served by before school, after school and out-of-school time programs and identify ways to best support their needs; provided further, that the working group shall review existing data on the effectiveness of out-of-school time programming in the commonwealth; provided further, that in carrying out its study, the working group shall hold no fewer than 9 hearings in, at minimum, the following regions of the commonwealth: Western Massachusetts, Central Massachusetts; Metrowest; Southeastern Massachusetts; the Cape and Islands; the Merrimac Valley; the North Shore; the South Shore; and Greater Boston; provided further, that the working group shall solicit testimony from interested stakeholders including, but not limited to, the following: staff of after school and out-of-school time programs; parents of school-age children; advocates for school-age children's services; business; community and religious leaders; representatives of higher education; law enforcement officials; philanthropic leaders; and individuals with knowledge and experience in the field of out-of-school time; provided further, that the commission shall make recommendations to: (1) coordinate, integrate, and streamline publicly funded out-of-school time administration and functions; (2) coordinate resources and policies regarding public funding streams for school age children; (3) strengthen

consumer education; (4) create an effective data collection system to support the necessary functions of a consolidated system; (4) establish the appropriate balance between funding for direct provision of service, for quality enhancement, and for administration; and (5) ensure the creation of a workforce system to support education, training and compensation of the out-of-school time workforce; provided further, that the working group shall submit a report containing its recommendations to the governor, the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education and the joint committee on children and families not later than December 15, 2005; provided further, that the joint committee on education and the joint committee on children and families shall review the recommendations of the working group on after school and out-of-school time; and provided further, that the committees shall make recommendations not later than February 1, 2006 to the general court, along with any legislative or budgetary recommendations necessary to best support accessible, affordable, quality out-of-school time programming for school age children \$100,000

COMMISSION ON BEACHES.

9700-0200 For a commission on beaches pursuant to section 104 \$125,000
9700-0701 For the Hynes Convention Center and parking garage commission to complete the task of section 299 of chapter 149 of the acts of 2004 \$50,000

Commission on the Status of Women.

0950-0000 For the commission on the status of women \$195,000

SECTION 2B. Notwithstanding 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. All revenues and other inflows shall be based on rates published by the seller agency that are developed in accordance with cost principles established by the United States Office of Management and Budget Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments." All rates shall be published within 30 days of the enactment of this section. No expenditures shall be made from the Intragovernmental Service Fund which

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would cause that fund to be in deficit at the close of fiscal year 2006. All authorizations in this section shall be charged to the Intragovernmental Service Fund and shall not be subject to section 5D of chapter 29 of the General Laws. Any balance remaining in that fund at the close of fiscal year 2006 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 \$16,000
- 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 when 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

OFFICE OF THE STATE COMPTROLLER.

- 1000-0008 For the costs of operating and managing the MMARS and New MMARS accounting system for fiscal year 2006 \$2,200,000

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

Division of Capital Asset Management and Maintenance.

- 1102-3224 For the costs for the Leverett Saltonstall lease and occupancy payments; provided, that the division of capital asset management and maintenance shall submit to the house and senate committees on ways and means on or before the first of each month beginning July 1, 2005 a monthly report on the agencies that currently, or will during fiscal year 2006 occupy space in the Saltonstall building, their rental costs, utility costs, parking space allocation, floor space, lease dates, all services included in the lease and all services that the agencies are obligated to fund beyond the lease payments; provided further, that the report shall include both estimated payments and prior expenditures \$11,217,734

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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 using 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 unemployment assistance \$3,185,389

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; 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 and object class 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, object class 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 for administration and finance shall authorize the collection, accounting and payment of such contributions; and provided further, that in executing these responsibilities, the 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 \$26,600,000

Division of Human Resources.

1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the division 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 \$200,000

1750-0105 For the cost of workers' compensation paid to public employees; provided, that the secretary of administration and finance shall charge other items 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 no funds shall be expended from this item that would cause the item to be deficient; provided further, that the secretary shall provide projected costs of workers' compensation costs incurred by agencies in fiscal year 2006 to the house and senate committees on ways and means not later than February 28, 2006; 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 2006, as provided in this section, for workers' compensation costs, including related administrative expenses incurred on behalf of the employees of the agencies;

provided further, that administrative expenses shall be allocated; provided further, that the personnel administrator shall administer the charges on behalf of the secretary, and may establish such rules and procedures as deemed necessary to implement this item; provided further, that the personnel administrator shall: (1) notify agencies regarding the chargeback methodology to be used in fiscal year 2006; (2) notify agencies of the amount of their estimated workers compensation charges for the fiscal year; and (3) require agencies to encumber funds in an amount sufficient to meet the estimated charges; provided further, that the estimated charges for each agency in the 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 2005, and may include such additional amounts as the division finds necessary under regulations promulgated pursuant to this section; provided further, that the division may adopt a program of incentives for agencies to reduce agencies' claims; provided further, that for any agency that fails within 30 days of the effective date of this act to encumber funds sufficient to meet the estimated charges, the comptroller shall so encumber funds on behalf of that agency; provided further, that the personnel administrator shall: (1) determine the amount of the actual workers' compensation costs incurred by each agency in the preceding month, including related administrative expenses; (2) notify each agency of the amounts; and (3) charge the 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 law to the contrary, any balance remaining in the Intergovernmental Service Fund, at the close of fiscal year 2005, shall be transferred to the General Fund; provided further, that any unspent balance at the close of fiscal year 2005 in an amount not to exceed 5 per cent of the amount authorized shall remain in the Intergovernmental Service Fund and is hereby re-authorized for expenditures for such item in fiscal year 2006; provided further, that the personnel administrator may expend in fiscal year 2006 for hospital, physician, benefit, and other costs related to workers' compensation for employees of state agencies, including ad-

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ministrative 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 for prior fiscal years \$56,390,476

1750-0106 For the workers' compensation litigation unit, including the costs of personnel \$595,905

Operational Services Division.

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 printing, photocopying, and related graphic art or design work, including all necessary incidental expenses and liabilities; provided, that the secretary for administration and finance 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

Information Technology Division.

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 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 related to the analysis, development and production of appropriations bills and other legislation shall not be charged to any item of appropriation of the executive office for administration and finance, the house of representatives, the senate or any joint legislative account in fiscal year 2006; provided further, that the bureau shall submit quarterly reports to the house and senate committees on ways and means summarizing the total charges, payments and services provided for the

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preceding quarter from each department charged to this item; provided further, that the reports shall include, but not be limited to, a delineation of the rates charged to each department as approved by the secretary for administration and finance for each service performed by the division; and provided further, that the secretary for administration and finance shall establish regulations, procedures and a schedule of fees including, but not limited to, the development and distribution of forms and instructions, including the costs of personnel \$49,000,000

1790-0400 For the purchase, delivery, handling of and contracting for supplies, postage and related equipment and other incidental expenses provided pursuant to section 51 of chapter 30 of the General Laws \$2,249,333

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 environmental law enforcement \$160,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary

4000-0102 For the cost of transportation services for health and human services clients and the operation of the health and human services transportation office \$6,869,957

4000-0103 The secretary of the executive office of health and human services may, notwithstanding any general or special law to the contrary, identify administrative activities and functions common to the separate agencies, departments, offices, divisions, and commissions within the executive office and may designate such functions "core administrative functions" in order to improve administrative efficiency and preserve fiscal resources; provided, that common functions that may be designated core administrative functions include, human resources, financial management, information technology, legal

and facilities; provided further, that all employees performing functions so designated may be employed by the executive office, and the executive office shall charge the agencies, departments, offices, divisions, and commissions for such services, subject to appropriation; provided further, that upon the designation of a function as a core administrative function, the employees of each agency, department, office, or commission who perform such core administrative functions may be transferred to the executive office of health and human services; provided further, that the reorganization shall not impair the civil service status of any such transferred 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; and provided further, that nothing in this section shall be construed to impair or change an employee's status, rights, or benefits under chapter 150E of the General Laws \$24,992,126

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 \$200,000

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, 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 payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$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 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 payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$3,800,000

Department of Mental Retardation.

5948-0012	For a program providing alternatives to residential placements for children with mental retardation, including the costs of intensive home-based supports, provided in item 7061-0012 of section 2	\$8,000,000
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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
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EXECUTIVE OFFICE OF PUBLIC SAFETY.

State Police.

- 8100-0002 For the costs of overtime associated with requested police details; 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 therefor 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. 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 prior to June 30, 2005, and not included as part of an appropriation item in

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this section, is hereby made available for expenditure during fiscal year 2006, in addition to any amount appropriated in this section.

JUDICIARY.

Trial Court.

0330-0335	For the purposes of a federally funded grant entitled, AOTC Drug Court MIS Program	\$200,000
0332-6110	For the purposes of a federally funded grant entitled, Brighton Drug Court	\$25,000
0335-0301	For the purposes of a federally funded grant entitled, Dorchester Court Domestic Violence Project	\$200,000
0337-0305	For the purposes of a federally funded grant entitled, Hampden Juvenile Drug Court	\$60,000

DISTRICT ATTORNEYS.

Suffolk District Attorney.

0340-0114	For the purposes of a federally funded grant entitled, Project Sentry	\$40,000
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Northern District Attorney.

0340-0213	For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account	\$16,000
0340-0216	For the purposes of a federally funded grant entitled, Conference Fee Trust Account	\$15,000
0340-0237	For the purposes of a federally funded grant entitled, Children's Advocacy Center National Network	\$12,250

Western District Attorney.

0340-0513	For the purposes of a federally funded grant entitled, Post Conviction Advocate Grant	\$45,646
0340-0528	For the purposes of a federally funded grant entitled, the Byrne grant	\$65,000

Northwestern District Attorney.

0340-0665	For the purposes of a federally funded grant entitled, Persons with Disabilities & Elder Unit	\$174,686
0340-0613	For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account	\$88,400

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Plymouth District Attorney.

0340-0806	For the purposes of a federally funded grant entitled, Weed and Seed	\$150,000
0340-0807	For the purposes of a federally funded grant entitled, Federal Community Prosecution grant	\$80,000

Bristol District Attorney.

0340-0916	For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account	\$35,000
0340-0923	For the purposes of a federally funded grant entitled, Community Involvement Project	\$148,284

Cape and Islands District Attorney.

0340-1013	For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account	\$60,000
0340-1034	For the purposes of a federally funded grant entitled, Juvenile Diversion Program	\$140,000

TREASURER AND RECEIVER-GENERAL.

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	\$379,500
0640-9718	For the purposes of a federally funded grant entitled, Arts Education	\$66,500
0640-9724	For the purposes of a federally funded grant entitled, Arts in Underserved Communities	\$110,000
0640-9729	For the purposes of a federally funded grant entitled, Challenge America	\$121,000

ATTORNEY GENERAL.

0810-0012	For the purposes of a federally funded grant entitled, Training to Stop Abuse and Sexual Assault of Older Individuals with Disabilities	\$50,000
0810-0026	For the purposes of a federally funded grant entitled, Crime Victim Compensation	\$1,142,000
0810-6658	For the purposes of a federally funded grant entitled, Weed and Seed	\$25,000

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Victim and Witness Assistance Board.

0840-0020	For the purpose of a federally funded grant entitled, the VAWA STOP Grant	\$300,000
0840-0110	For the purposes of a federally funded grant entitled, Victims of Crime Assistance Programs	\$7,767,441
0840-0113	For the purposes of a federally funded grant entitled, The Edward Byrne Memorial Grant	\$195,000
0840-4603	For the purposes of a federally funded grant entitled, Youth Advocacy Project	\$60,000

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

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 \$280,000 of fringe benefit and indirect cost charges pursuant to section 6B of chapter 29 of the General Laws	\$1,870,250
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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

1201-0104	For the purposes of a federally funded grant entitled, Joint Federal-State Motor Fuel Tax Compliance Project	\$10,000
1201-0109	For the purposes of a federally funded grant entitled, Access and Visitation - Parent Education Program	\$222,469
1201-1951	For the purposes of a federally funded grant entitled, Managing Child Support Arrears in Massachusetts	\$50,000
1201-2489	For the purposes of a federally funded grant entitled, Improving Child Support Information from TANF Applicants	\$50,000

SECRETARY OF STATE.

0521-0800	For the purpose of a federally funded grant entitled, Election Assistance for Disabled Individuals	\$170,154
0526-0114	For the purposes of a federally funded grant entitled, Historic Preservation Survey and Planning	\$748,930

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0526-0115 For the purposes of a federally funded grant entitled,
Massachusetts Historical Commission - Federal Preservation
Grants \$200,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-0131 For the purposes of a federally funded grant entitled, Cooperating
Technical Partner \$15,750
2000-0141 For the purposes of a federally funded grant entitled, Coastal
Zone Management Development \$2,595,134
2000-0248 For the purposes of a federally funded grant entitled, National
Estuary Program - Operation \$416,623
2000-0177 For the purposes of a federally funded grant entitled, Wetlands
Program Development \$48,000
2000-0186 For the purposes of a federally funded grant entitled, Aquatic
Nuisance Species Management Plan \$23,000
2000-6063 For the purposes of a federally funded grant entitled, PPIS-
Improving Chemical Security \$15,000
2000-9701 For the purposes of a federally funded grant entitled, Outdoor
Recreation Projects - Political Subdivisions \$1,350,000
2000-9730 For the purposes of a federally funded grant entitled, Buzzards
Bay Conservation & Management Plan \$481,984
2000-9760 For the purposes of a federally funded grant entitled, Inventory of
Navy Shipwrecks in Massachusetts Waters \$495
2030-0013 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 \$1,200,000
2030-0108 For the purposes of a federally funded grant entitled, Fisheries
Enforcement Support Services \$14,279
2030-9701 For the purposes of a federally funded grant entitled, Safe
Boating Program \$900,000

Department of Environmental Protection.

2200-9706 For the purposes of a federally funded grant entitled, Water
Quality Management Planning \$486,789
2200-9712 For the purposes of a federally funded grant entitled, Cooperative
Agreement-Leaking Underground Storage Tank Program \$993,006
2200-9717 For the purposes of a federally funded grant entitled, D.O.D.
Environment Restoration Program \$1,702,444

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2200-9722	For the purposes of a federally funded grant entitled, Baird and McGuire	\$885,000
2200-9724	For the purposes of a federally funded grant entitled, Superfund Block Fund Cooperative Agreement	\$1,018,879
2200-9728	For the purposes of a federally funded grant entitled, Brownfields Assessment Program - multi-site	\$225,000
2200-9729	For the purposes of a Federally funded grant entitled, Brownfields Pilots Cooperative Agreement	\$10,617
2200-9730	For the purposes of a federally funded grant entitled, MMR Impact Area Groundwater Study	\$388,000
2200-9731	For the purposes of a federally funded grant entitled, Brownfield Response Cooperative	\$1,500,000
2230-9702	For the purposes of a federally funded grant entitled, Performance Partnership Grant	\$15,187,872
2230-9707	For the purposes of a federally funded grant entitled, National Environmental Info Exchange Network	\$88,391
2240-9760	For the purposes of a federally funded grant entitled, Charles River Categorical Grant	\$15,000
2240-9762	For the purposes of a federally funded grant entitled, Reimbursement Operators Small Water Systems	\$644,420
2240-9764	For the purposes of a federally funded grant entitled, 3% Set aside - Special Appropriation	\$58,157
2240-9765	For the purposes of a federally funded grant entitled, Water Protection Coordination Grants to States	\$91,000
2240-9767	For the purposes of a federally funded grant entitled, Assabet River Watershed Project	\$25,000
2240-9769	For the purposes of a federally funded grant entitled, Estuaries Watershed Permitting	\$115,191
2240-9771	For the purposes of a federally funded grant entitled, 104G Technical Assistance Grant	\$17,000
2250-9712	For the purposes of a federally funded grant entitled, Clean Air Act	\$358,797
2250-9716	For the purposes of a federally funded grant entitled, Ambient Air Toxics Pilot Project	\$51,783
2250-9718	For the purposes of a federally funded grant entitled, Environmental Results Automation	\$48,670
2250-9721	For the purposes of a federally funded grant entitled, Biowatch Monitoring	\$137,945
2250-9722	For the purposes of a federally funded grant entitled, Supermarket Recycling of Food Waste	\$1,289

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2250-9724 For the purposes of a federally funded grant entitled, Resource Conservation Workgroup \$74,000

Department of Fish and Game.

2300-0112 For the purposes of federal funds from USFW to further River Restore's survey, planning, design and educational work \$90,000

2230-9702 For the purposes of a federally funded grant entitled, 319 Nonpoint Source Pollution \$37,000

2310-0115 For the purposes of a federally funded grant entitled, Land Owner Incentive Program Administration \$180,000

2310-0116 For the purposes of a federally funded grant entitled, Land Owner Incentive Program Implementation \$900,000

2310-0117 For the purposes of a federally funded grant entitled, Chronic Wasting Disease \$64,000

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 \$2,000

2330-9712 For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics \$151,250

2330-9713 For the purposes of a federally funded grant entitled, Right Whale Preservation and Protection Program \$336,725

2330-9714 For the purposes of a federally funded grant entitled, Commercial Fisheries Extension \$1,000

2330-9721 For the purposes of a federally funded grant entitled, Anadromous Fisheries Management \$40,000

2330-9725 For the purposes of a federally funded grant entitled, Boating Infrastructure \$300,000

2330-9726 For the purposes of a federally funded grant entitled, Lobster Trap Escape Vent Selectivity \$55,000

2330-9727 For the purposes of a federally funded grant entitled, Reducing Blue Shark Bycatch in Pelagic Longline Fisheries \$1,000

2330-9728 For the purposes of a federally funded grant entitled, Monkfish Cooperative Research Project: Gillnet & Study Fleet \$1,000

2330-9730 For the purposes of a federally funded grant entitled, Interstate Fisheries Management Support \$233,956

2330-9731 For the purposes of a federally funded grant entitled, Biological Characterization of Mass. Scup Fisheries \$1,000

2330-9732 For the purposes of a federally funded grant entitled, ACCSP Implementation Strategic Plan \$186,000

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2330-9733	For the purposes of a federally funded grant entitled, Further Testing of Cod Avoiding Trawl Net Design	\$75,000
2330-9734	For the purposes of a federally funded grant entitled, Pilot Industry Based Survey Implementation	\$1,000,000
2330-9735	For the purposes of a federally funded grant entitled, MA Multispecies Fishery Economic Assistance	\$1,000
2330-9736	For the purposes of a federally funded grant entitled, Marine Fisheries Institute	\$480,000
2330-9737	For the purposes of a federally funded grant entitled, Rainbow Smelt 2 year pilot Study	\$15,000

Department of Agricultural Resources.

2511-0310	For the purposes of a federally funded grant entitled, Pesticide Enforcement	\$164,542
2511-0320	For the purposes of a federally funded grant entitled, Certification of Pesticide Applicators	\$122,717
2511-0400	For the purposes of a federally funded grant entitled, Cooperative Pest Survey Program	\$27,087
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	\$4,400,000
2511-1022	For the purposes of a federally funded grant entitled, Mad Cow Disease Enhanced Surveillance	\$79,090
2511-1023	For the purposes of a federally funded grant entitled, Enhanced Surveillance of Swine Garbage Feeding Operations	\$38,000
2515-1002	For the purposes of a federally funded grant entitled, Animal Disease Surveillance Homeland Security	\$16,328
2515-1003	For the purposes of a federally funded grant entitled, Voluntary Johnes Disease Control	\$60,000
2515-1004	For the purposes of a federally funded grant entitled, Scrapie Disease Surveillance	\$5,000
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

Department of Conservation and Recreation.

2800-9707	For the purposes of a federally funded grant entitled, National Flood Insurance Program	\$168,000
2800-9709	For the purposes of a federally funded grant entitled, Map Modernization	\$135,750
2800-9720	For the purposes of a federally funded grant entitled, Blackstone Heritage Corridor Commission Cooperative Agreement	\$258,708
2800-9721	For the purposes of a federally funded grant entitled, Schooner Ernestina Historical Documentation	\$20,000
2800-9725	For the purposes of a federally funded grant entitled, FEMA National Dam Safety Program	\$91,502
2800-9728	For the purposes of a federally funded grant entitled, Rehabilitation Services - Inspired	\$137,680
2820-9702	For the purposes of a federally funded grant entitled, Rural Community Fire Protection	\$132,225
2820-9704	For the purposes of a federally funded grant entitled, NRCS - Wildlife Incentives Habitat Program	\$10,000
2820-9705	For the purposes of a federally funded grant entitled, Animal & Plant Health Inspections	\$6,000
2821-9705	For the purposes of a federally funded grant entitled, Shade Tree and Forest Health	\$741,529
2821-9709	For the purposes of a federally funded grant entitled, Forestry Planning	\$2,792,513
2821-9710	For the purposes of a federally funded grant entitled, Forest Land Enhancement	\$69,837
2821-9711	For the purposes of a federally funded grant entitled, Rural Fire Prevention and Control	\$393,590
2821-9713	For the purposes of a federally funded grant entitled, Wildland Urban Interface Fuels Management in Southeastern Massachusetts	\$718,500
2821-9719	For the purposes of a federally funded grant entitled, USFS Forestry - Watershed Forest Management	\$11,845
2821-9722	For the purposes of a federally funded grant entitled, Forest Resource Management - US Forest Service	\$24,077
2821-9726	For the purposes of a federally funded grant entitled, Forest Health Management - US Forest Service	\$213,585
2840-9709	For the purposes of a federally funded grant entitled, Waquoit Bay National Estuarine Research Reserve Consolidated Funding	\$850,877

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2840-9714	For the purposes of a federally funded grant entitled, Waquoit Bay Land Acquisition - National Estuarine Research Reserve	\$1,400,000
2840-9757	For the purposes of a federally funded grant entitled, Lower Neponset River Estuary Salt Marsh Restoration	\$65,000
2850-9750	For the purposes of a federally funded grant entitled, Ipswich River Watershed EPA Grants	\$440,185

DEPARTMENT OF EARLY EDUCATION AND CARE.

Department of Early Education and Care.

3000-8020	For the purposes of a federally funded grant entitled, Child Care Research Project	\$89,104
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EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

4000-0708	For the purposes of a federally funded grant entitled, Head Start Demonstration	\$175,000
4000-0713	For the purposes of a federally funded grant entitled, Youth Development State Collaboration	\$84,779
4000-9401	For the purposes of a federally funded grant entitled, Community Mental Health Services	\$8,898,380
4000-9402	For the purposes of a federally funded grant entitled, Substance Abuse Prevention and Treatment Block Grant	\$35,120,622

Department of Veterans' Services.

1410-0254	For the purposes of a federally funded grant entitled, Homeless Veterans Reintegration - Training and Placement - statewide	\$200,000
1410-0256	For the purposes of a federally funded grant entitled, Veterans Workforce Investment Program	\$230,308
1410-8001	For the purposes of a federally funded grant, entitled, Winchendon State Veterans' Cemetery	\$50,000

Massachusetts Commission for the Blind.

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	\$50,000
4110-3021	For the purposes of a federally funded grant entitled, Basic Support Grant	\$7,474,720

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4110-3023	For the purposes of a federally funded grant entitled, Independent Living - Adaptive Housing	\$73,165
4110-3026	For the purposes of a federally funded grant entitled, Independent Living - Services to Older Blind Americans	\$753,522
4110-3027	For the purposes of a federally funded grant entitled, Rehabilitation Training	\$29,280
4110-3028	For the purposes of a federally funded grant entitled, Supported Employment	\$129,244

Massachusetts Rehabilitation Commission.

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	\$42,500,000
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	\$371,237
4120-0191	For the purposes of a federally funded grant entitled, Informed Members Planning and Assessing Choices Together (IMPACT)	\$460,000
4120-0511	For the purposes of a federally funded grant entitled, Vocational Rehabilitation - Determination of Disability	\$38,500,000
4120-0606	For the purposes of a federally funded grant entitled, Recreational Services for the Multi-Disabled	\$20,000
4120-0760	For the purposes of a federally funded grant entitled, Independent Living	\$1,871,402

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0103	For the purposes of a federally funded grant entitled, Massachusetts Assistive Technology Partnership	\$394,796
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Department of Mental Retardation.

5947-0007	For the purposes of a federally funded grant entitled, Massachusetts Bridges to Community Project	\$157,020
5947-0008	For the purposes of a federally funded grant entitled, Community Integrated Personal Assistant Services	\$241,325

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5947-0009 For the purposes of a federally funded grant entitled, Family Support \$25,000

OFFICE OF CHILDREN, YOUTH AND FAMILIES.

Children's Trust Fund.

4130-9002 For the purposes of a federally funded grant entitled, Child Abuse Prevention Activities \$527,961

Department of Youth Services.

4200-1621 For the purposes of a federally funded grant entitled, Serious and Violent Offender Reentry Initiative \$333,332

Department of Transitional Assistance.

4400-0705 For the purposes of a federally funded grant entitled, Emergency Shelter Grants \$2,534,851

4400-0707 For the purposes of a federally funded grant entitled Continuum of Care \$5,546,930

4400-3066 For the purposes of a federally funded grant entitled Training for Food Stamp ABAWDs \$919,448

4400-3067 For the purposes of a federally funded grant entitled, Food Stamp Employment and Training \$2,094,247

4400-3069 For the purposes of a federally funded grant entitled, Full Employment Food Stamp Cash-Out \$25,000

4400-9404 For the purposes of a federally funded grant entitled, McKinney Shelter Plus Care \$1,999,024

Department of Social Services.

4800-0005 For the purposes of a federally funded grant entitled, Children's Justice Act \$360,841

4800-0007 For the purposes of a federally funded grant entitled, The Family Violence Prevention and Support Services Act \$1,854,981

4800-0009 For the purposes of a federally funded grant entitled, Title IV-E Independent Living \$2,904,616

4800-0013 For the purposes of a federally funded grant entitled, Family Preservation and Support Services \$4,999,336

4800-0085 For the purposes of a federally funded grant entitled, Educational & Training Voucher Program \$927,371

4800-0086 For the purposes of a federally funded grant entitled, Adoption Opportunities Grant \$350,000

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4800-0087	For the purposes of a federally funded grant entitled, Supervised Visitation and Safe Exchange Grant	\$374,745
4800-1634	For the purposes of a federally funded grant entitled, Teen Living Program - Father's Outreach Program	\$98,743
4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services	\$4,542,083
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment	\$466,699

OFFICE OF HEALTH SERVICES.*Department of Public Health.*

4500-1000	For the purposes of a federally funded grant entitled, Preventive Health Services Block Grant	\$2,995,528
4500-1050	For the purposes of a federally funded grant entitled, Rape Prevention and Education	\$1,166,076
4500-2000	For the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant	\$13,662,253
4502-1012	For the purposes of a federally funded grant entitled, Cooperative Health Statistics System	\$510,692
4510-0109	For the purposes of a federally funded grant entitled, State Loan Repayment Project	\$250,000
4510-0113	For the purposes of a federally funded grant entitled, Office of Rural Health	\$150,000
4510-0118	For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement	\$112,200
4510-0119	For the purposes of a federally funded grant entitled, Rural Hospital Flexibility Program	\$255,000
4510-0219	For the purposes of a federally funded grant entitled, Small Rural Hospital Improvement Program	\$77,440
4510-0220	For the purposes of a federally funded grant entitled, Children's Oral Health Access Program	\$70,950
4510-0400	For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification	\$7,677,137
4510-0403	For the purposes of a federally funded grant entitled, Mass Reporting System Evaluate Effects	\$335,047
4510-0404	For the purposes of a federally funded grant entitled, Bioterrorism Hospital Preparedness	\$11,702,059
4510-0500	For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement	\$211,760

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4510-0609	For the purposes of a federally funded grant entitled, NRC Security Inspections	\$8,421
4510-0619	For the purposes of a federally funded grant entitled, FDA Inspection of Food Establishments	\$191,170
4510-0629	For the purposes of a federally funded grant entitled, Harold Rogers Prescription Drug monitoring	\$111,500
4510-0633	For the purposes of a federally funded grant entitled, Harold Rogers II Prescription Drug Monitoring	\$350,000
4510-0634	For the purposes of a federally funded grant entitled, Food Safety Task Force Meeting	\$3,253
4510-0636	For the purposes of a federally funded grant entitled, Childhood Lead Paint Poisoning Prevention	\$1,296,974
4510-0793	For the purposes of a federally funded grant entitled, RURAL Automatic External Defibrillator	\$119,335
4510-9014	For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections	\$141,079
4510-9040	For the purposes of a federally funded grant entitled, Diabetes Control Program	\$859,266
4510-9043	For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Health Impact Assessments	\$528,792
4510-9048	For the purposes of a federally funded grant entitled, Indoor Radon Development Program	\$228,962
4510-9053	For the purposes of a federally funded grant entitled, Beaches Environmental Assessment	\$257,246
4510-9056	For the purposes of a federally funded grant entitled, National Environmental Public Health Tracking	\$568,205
4510-9062	For the purposes of a federally funded grant entitled, Prevalence of ALS and MS in Commonwealth Around Hazardous Waste Sites	\$164,283
4510-9063	For the purposes of a federally funded grant entitled, Environmental and Health Effects Tracking	\$460,019
4512-0102	For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control	\$2,018,014
4512-0107	For the purposes of a federally funded grant entitled, HIV Risk Behavior Surveillance	\$143,260
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project	\$5,496,565
4512-0180	For the purposes of a federally funded grant entitled, Epidemiology and Lab Surveillance	\$1,431,539

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4512-9061	For the purposes of a federally funded grant entitled, State Data Infrastructure Program	\$99,960
4512-9062	For the purposes of a federally funded grant entitled, MH/Substance Abuse Emergency Response	\$99,500
4512-9063	For the purposes of a federally funded grant entitled, Ecstasy and Other Club Drugs Cooperative Agreement	\$292,356
4512-9426	For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection	\$82,226
4513-0111	For the purposes of a federally funded grant entitled, Housing Opportunities-People with AIDS	\$1,137,803
4513-9007	For the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants, and Children (WIC)	\$70,586,439
4513-9018	For the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education - Risk Reduction	\$11,659,469
4513-9019	For the purposes of a federally funded grant entitled, HIV Testing-Regular Medical Services	\$200,000
4513-9021	For the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps	\$9,308,226
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	\$888,693
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	\$1,487,325
4513-9037	For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources	\$21,135,640
4513-9038	For the purposes of a federally funded grant entitled, Shelter Plus Care - Worcester	\$190,512
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	\$68,173
4513-9051	For the purposes of a federally funded grant entitled, Rural Domestic Violence and Children Victimization Project	\$465,560
4513-9060	For the purposes of a federally funded grant entitled, Residential Fire Injury Prevention - Mass Injury Intervention and Surveillance	\$145,139

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4513-9061	For the purposes of a federally funded grant entitled, Abstinence Education Project	\$739,012
4513-9066	For the purposes of a federally funded grant entitled, Universal Newborn Hearing Screening-Enhancement Project	\$150,000
4513-9071	For the purposes of a federally funded grant entitled, Early Hearing Detection and Intervention (EHDI) Tracking and Research	\$150,000
4513-9072	For the purposes of a federally funded grant entitled, Intimate Partner Violence Among Racial and Ethnic Minority Populations	\$455,224
4513-9075	For the purposes of a federally funded grant entitled, Alcohol Screening During Pregnancy - Replicating Lessons Learned . . .	\$150,000
4513-9076	For the purposes of a federally funded grant entitled, Early Childhood Comprehensive Systems	\$100,000
4513-9077	For the purposes of a federally funded grant entitled, Emergency Medical Services for Children Partnership II	\$100,000
4513-9078	For the purposes of a federally funded grant entitled, Asthma Planning Collaborative	\$200,000
4513-9079	For the purposes of a Massachusetts Youth Violence Prevention Program	\$99,845
4513-9080	For the purposes of a Massachusetts Perinatal Connection Project	\$250,000
4514-1004	For the purposes of a federally funded grant entitled, Emotion Based Messages to Promote Healthy Behavior	\$151,240
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project	\$2,004,895
4515-0121	For the purposes of a federally funded grant entitled, Tuberculosis Epidemiological Studies and Consortium	\$268,496
4515-0200	For the purposes of a federally funded grant entitled, STD/HIV Prevention Training Centers	\$467,000
4515-0203	For the purposes of a federally funded grant entitled, Prevalence of STD, TB and HIV Risk Behavior Among MSM	\$59,770
4516-1021	For the purposes of a federally funded grant entitled, Public Health Preparedness and Response for Bioterrorism	\$23,833,222
4516-1025	For the purposes of a federally funded grant entitled, Morbidity and Risk Behavior Surveillance	\$107,786
4518-0505	For the purposes of a federally funded grant entitled, Tech Data & Mass Birth/Infant Death File Linkage/Analysis Assistive Reproductive	\$90,000
4518-0506	For the purposes of a federally funded grant entitled, Core Injury Surveillance Phase III	\$180,000

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4518-0507	For the purposes of a federally funded grant entitled, Core Injury Surveillance Phase II	\$91,000
4518-0509	For the purposes of a federally funded grant entitled, Occupational Health Surveillance Low Incomes	\$55,500
4518-0514	For the purposes of a federally funded grant entitled, National Violent Death Reporting System	\$280,000
4518-0532	For the purposes of a federally funded grant entitled, Core Occupational Health Surveillance	\$338,153
4518-1000	For the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index	\$43,598
4518-1002	For the purposes of a federally funded grant entitled, Massachusetts Death File - Social Security Administration	\$79,300
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	\$157,122
4518-9023	For the purposes of a federally funded grant entitled, Census of Fatal Occupational Injuries	\$42,100
4518-9025	For the purposes of a federally funded grant entitled, Fatality Surveillance and Field Investigations	\$145,748
4570-1509	For the purposes of a federally funded grant entitled, Massachusetts Cardiovascular Disease Prevention	\$1,245,011
4570-1512	For the purposes of a federally funded grant entitled, National Cancer Prevention Control	\$6,027,425
4570-1515	For the purposes of a federally funded grant entitled, Chronic Diseases Prevention and Health Promotion	\$4,786,525

Department of Mental Health.

5012-9121	For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness	\$1,319,000
5012-9157	For the purposes of a federally funded grant entitled, Alternatives to Restraint and Seclusion	\$267,000
5014-9105	For the purposes of a federally funded grant entitled, Data Infrastructure	\$192,000
5046-9102	For the purposes of a federally funded grant entitled, Shelter Plus Care Program	\$173,760
5047-9101	For the purposes of a federally funded grant entitled, Worcester Communities of Care for Youth	\$250,000

EXECUTIVE OFFICE OF TRANSPORTATION.

Office of the Secretary.

6000-0018	For the purposes of a federally funded grant entitled, Rural Public Transportation Assistance	\$2,518,912
6000-0019	For the purposes of a federally funded grant entitled, Section 5307 Transportation Demand Management	\$275,000
6000-0020	For the purposes of a federally funded grant entitled, Jobs Access Reverse Commute	\$271,911
6000-0023	For the purposes of a federally funded grant entitled, Rural Public Transportation Planning Grant	\$3,203,756
6000-0049	For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation Capital Grant	\$3,669,482
6000-0022	For the purposes of a federally funded grant entitled, United We Ride Grant	\$25,000

Massachusetts Aeronautics Commission.

6006-0042	For the purposes of a federally funded grant entitled, Airport System Planning	\$44,820
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Registry of Motor Vehicles.

8400-0090	For the purposes of a federally funded grant entitled, Enhance CDL Licensing	\$895,000
8400-0092	For the purposes of a federally funded grant entitled, Enhancing Social Security Verification	\$221,000

Board of Library Commissioners.

7000-9700	For the purposes of a federally funded grant entitled, Federal Reserve - Title I	\$169,000
7000-9702	For the purposes of a federally funded grant entitled, Library Service Technology Act	\$3,423,733

Department of Labor and Workforce Development.

7002-4203	For the purposes of a federally funded grant entitled, Occupational Substance and Health Administration Statistical Survey	\$105,443
7002-4204	For the purposes of a federally funded grant entitled, Adult Blood Lead Levels Surveillance	\$23,120
7002-4212	For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring	\$105,257

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7002-4213	For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring	\$299,638
7002-4215	For the purposes of a federally funded grant entitled, Occupational Illness and Injury	\$88,781
7002-6621	For the purposes of a federally funded grant entitled, Division of Employment and Training Administrative Clearing Account	\$8,000,000
7002-6624	For the purposes of a federally funded grant entitled, Unemployment Insurance Administration	\$60,337,301
7002-6626	For the purposes of a federally funded grant entitled, Employment Service Programs Administration	\$19,125,444
7002-6627	For the purposes of a federally funded grant entitled, Occupational Substance and Health Administration On-site Consultation Program	\$1,491,059
7002-6628	For the purposes of a federally funded grant entitled, Disabled Veterans Outreach	\$1,474,171
7002-6629	For the purposes of a federally funded grant entitled, Local Veterans Employment Representative	\$1,594,237
7002-9701	For the purposes of a federally funded grant entitled, Federal Bureau of Labor Statistics Grant	\$2,114,830
7003-1010	For the purposes of a federally funded grant entitled, Trade Expansion Act Program	\$9,662,543
7003-1630	For the purposes of a federally funded grant entitled, Adult Activities - Workforce Investment Act Title I	\$14,164,208
7003-1631	For the purposes of a federally funded grant entitled, Youth Formula Grants - Workforce Investment Act Title I	\$21,330,366
7003-1632	For the purposes of a federally funded grant entitled, Dislocated Workers - Workforce Investment Act Title I	\$47,788,719
7003-1633	For the purposes of a federally funded grant entitled, Work Incentive Grant Access to Employment for All	\$1,000,000
7003-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training	\$63,113

Department of Housing and Community Development.

7004-0304	For the purposes of a federally funded grant entitled, Lead-Based Paint Control Program	\$50,000
7004-2030	For the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development	

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	may provide monthly payments in advance to participating agencies	\$6,577,376
7004-2033	For the purposes of a federally funded grant entitled, Low Income Home Energy Assistance Program; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development shall provide monthly payments in advance to participating agencies	\$81,277,612
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	\$17,261,548
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	\$44,078,903
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	\$7,426,976
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	\$200,333,000
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	\$8,540,000
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	\$6,247,565
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	

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	housing and community development may provide monthly payments in advance to participating agencies	\$22,236,976
7004-9039	For the purposes of a federally funded grant entitled, HOME Technical Assistance	\$100,000
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	\$28,894

Department of Telecommunications and Energy.

7006-9000	For the purposes of a federally funded grant entitled, Motor Carrier Safety Assistance	\$2,803
7006-9001	For the purposes of a federally funded grant entitled, One Call Project	\$6,918
7006-9002	For the purposes of a federally funded grant entitled, Pipeline Security	\$744,913

Division of Energy Resources.

7006-9216	For the purposes of a federally funded grant entitled, City of Boston Municipal Energy Program	\$40,000
7006-9218	For the purposes of a federally funded grant entitled, Mystic Valley Combined Heat	\$26,000
7006-9220	For the purposes of a federally funded grant entitled, Potential for Wind Energy	\$8,367
7006-9221	For the purposes of a federally funded grant entitled, SEP Regional Conference/Workshop	\$10,248
7006-9222	For the purposes of a federally funded grant entitled, Massachusetts Micro-Hydro Analysis Project	\$5,000
7006-9223	For the purposes of a federally funded grant entitled, Leveraging Manufacturing Productivity and Energy Efficiency Resources on a Regional Basis	\$6,750
7006-9224	For the purposes of a federally funded grant entitled, Clean Cities Coalition Support	\$6,825
7006-9225	For the purposes of a federally funded grant entitled, Industries of the Future Program	\$27,882
7006-9227	For the purposes of a federally funded grant entitled, Public Housing Efficiency Project	\$1,000
7006-9228	For the purposes of a federally funded grant entitled, Rebuild America - Northeast Regional Peer Exchange	\$19,913

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7006-9229	For the purposes of a federally funded grant entitled, Eastern Massachusetts Shuttle Project	\$66,375
7006-9230	For the purposes of a federally funded grant entitled, Northeast Regional Combined Cooling, Heating, and Power	\$150,000
7006-9232	For the purposes of a federally funded grant entitled, Comm. Of Mass Energy Efficiency Partnership Outreach, Training and Assessments	\$149,967
7006-9735	For the purposes of a federally funded grant entitled, Massachusetts Million Solar Roofs Partnership	\$49,680
7006-9720	For the purposes of a federally funded grant entitled, State Heating Oil and Propane Program	\$22,820
7006-9743	For the purposes of a federally funded grant entitled, State Energy Plan	\$967,000
7006-9757	For the purposes of a federally funded grant entitled, Northeast Regional Biomass Program	\$20,000

Department of Business and Technology.

7007-9015	For the purposes of a federally funded grant entitled, Port Security Continuation	\$192,120
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Department of Education.

7010-9706	For the purposes of a federally funded grant entitled, Common Core Data Project	\$95,003
7027-0210	For the purposes of a federally funded grant entitled, Partnerships in Character Education	\$198,195
7032-0217	For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program - Distribution	\$804,000
7032-0228	For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program	\$650,000
7033-9401	For the purposes of a federally funded grant entitled, Christa McAuliffe Fellowship Program - Administration	\$8,500
7035-0020	For the purposes of a federally funded grant entitled, Massachusetts State Improvement Grant Project Focus	\$2,552,000
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Distribution	\$4,754,428
7035-0176	For the purposes of a federally funded grant entitled, Comprehensive School Demonstration - Distribution	\$6,590,588
7035-0210	For the purposes of a federally funded grant entitled, Advanced Placement Fee Payment Program	\$336,646

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7038-0107	For the purposes of a federally funded grant entitled, Adult Basic Education - Distribution	\$12,236,000
7038-0188	For the purposes of a federally funded grant entitled, Family Literacy Administration Phase II	\$167,664
7038-9004	For the purposes of a federally funded grant entitled, School Based Programs	\$509,688
7038-9008	For the purposes of a federally funded grant entitled, Learn and Serve America, Higher Ed and Schools Partnership	\$235,600
7038-9748	For the purposes of a federally funded grant entitled, Refugee Children School Impact Grant Program	\$300,000
7043-1001	For the purposes of a federally funded grant entitled, Title I Basic Program	\$230,510,606
7043-1002	For the purposes of a federally funded grant entitled, Title I Reading First State Grants	\$18,542,055
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	\$1,950,000
7043-2001	For the purposes of a federally funded grant entitled, Title II Teacher Quality State Grants	\$52,717,550
7043-2002	For the purposes of a federally funded grant entitled, Title II State and Local Technology Grants	\$14,155,554
7043-2003	For the purposes of a federally funded grant entitled, Title IIB Math and Science Partnerships	\$1,731,107
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	\$11,525,000
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
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

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7043-7001	For the purposes of a federally funded grant entitled, Special Education Grants	\$250,351,438
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
7053-2112	For the purposes of a federally funded grant entitled, Special Assistance Funds	\$133,180,125
7053-2117	For the purposes of a federally funded grant entitled, Child Care Program	\$55,040,252
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	\$6,125,000
7062-0008	For the purposes of a federally funded grant entitled, Office of School Lunch Programs - Child Care Program Administration	\$2,850,000
7062-0017	For the purposes of a federally funded grant entitled, Charter Schools Assistance	\$4,751,065
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	\$1,345,000
7066-6022	For the purposes of a federally funded grant entitled, Gear Up - Board of Higher Education	\$1,590,567
7070-0017	For the purposes of a federally funded grant entitled, State Student Incentive Grant Program - Board of Higher Education	\$1,040,274
7110-6019	For the purposes of a federally funded grant entitled, Upward Bound Payroll and Benefits-Fitchburg State College	\$150,182
7110-6030	For the purposes of a federally funded grant entitled, Expanding Horizons Student Support Services - Fitchburg State College	\$161,177

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7110-6046	For the purposes of a federally funded grant entitled, Co-Step Special Education Payroll and Benefits - Fitchburg State College	\$48,917
7110-6064	For the purposes of a federally funded grant entitled, USIA Community Connections Payrol - Fitchburg State College	\$32,854
7410-3093	For the purposes of a federally funded grant entitled, Polymer Building Construction - University of Massachusetts Amherst	\$832,264
7503-6555	For the purposes of a federally funded grant entitled, Title III Strengthening Institutions Program - Bristol Community College	\$159,829
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - Bristol Community College	\$297,973
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program - Bristol Community College	\$111,000
7509-1490	For the purposes of a federally funded grant entitled, Educational Opportunities Centers Payroll - Mount Wachusett Community College	\$130,119
7509-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - Mount Wachusett Community College	\$214,243
7509-9718	For the purposes of a federally funded grant entitled, Talent Search - Mount Wachusett Community College	\$241,850
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - North Shore Community College	\$434,823
7511-9713	For the purposes of a federally funded grant entitled, IAP - Strengthening Institutions Program	\$362,534
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound - North Shore Community College	\$144,388
7511-9750	For the purposes of a federally funded grant entitled, Talent Search	\$192,005

EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.

Office of the Secretary.

8000-4602	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act - Planning	\$128,700
8000-4603	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act	\$1,158,300

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8000-4608	For the purposes of a federally funded grant entitled, Drug-Free Schools and Communities Act of 1986	\$1,787,879
8000-4609	For the purposes of a federally funded grant entitled, Narcotics Control Assistance	\$10,163,694
8000-4610	For the purposes of a federally funded grant entitled, Statistical Analysis Center	\$51,377
8000-4619	For the purposes of a federally funded grant entitled, Title V	\$272,000
8000-4620	For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program	\$2,492,000
8000-4623	For the purposes of a federally funded grant entitled, Criminal History Improvement	\$812,313
8000-4625	For the purposes of a federally funded grant entitled, Local Law Enforcement Block Grants	\$735,685
8000-4634	For the purposes of a federally funded grant entitled, Juvenile Accountability Incentive Block Grant	\$978,100
8000-4642	For the purposes of a federally funded grant entitled, Bullet-proof Vest Partnership Program	\$100,000
8000-4692	For the purposes of a federally funded grant entitled, State Homeland Security Program	\$45,638,500
8000-4693	For the purposes of a federally funded grant entitled, Project Safe Neighborhood	\$1,200,000
8000-4694	For the purposes of a federally funded grant entitled, Urban Area Security Initiative	\$19,018,846
8000-4804	For the purposes of a federally funded grant entitled, State Agency Programs	\$18,619,013
8000-4829	For the purposes of a federally funded grant entitled, Demonstration /Evaluation of Rational Speed Limits	\$80,000
8000-4830	For the purposes of a federally funded grant entitled, Crash Outcome Data Evaluation System	\$65,717
8000-4831	For the purposes of a federally funded grant entitled, FY02 Enforcing the Underage Drinking Law	\$100,000
8000-4834	For the purposes of a federally funded grant entitled, Older Road User Highway Improvements	\$135,000
8000-4835	For the purposes of a federally funded grant entitled, FY2003 Enforcing the Underage Drinking Laws	\$357,600
8000-4836	For the purposes of a federally funded grant entitled, Commercial Motor Vehicle Data Quality Control and Analysis	\$200,000
8000-4837	For the purposes of a federally funded grant entitled, FY 2004 Enforcing the Underage Drinking Laws	\$200,000

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Department of State Police.

8100-0208	For the purposes of a federally funded grant entitled, MCSAP	\$243,201
8100-0209	For the purposes of a federally funded grant entitled, Region 1 Training Academy Motor Carrier Safety Assistance	\$145,000
8100-0210	For the purposes of a federally funded grant entitled, MCSAP- CVE New Entrant Audit	\$252,976
8100-0215	For the purposes of a federally funded grant entitled, MCSAP FY05/FY06	\$2,145,088
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	\$32,000
8100-9720	For the purposes of a federally funded grant entitled, FY03 DNA No Suspect Backlog Reduction	\$780,196
8100-9721	For the purposes of a federally funded grant entitled, Paul Coverdell National Forensic Science	\$25,664
8100-9725	For the purposes of a federally funded grant entitled, Paul Coverdell National Forensic Science FY04	\$147,004
8100-9726	For the purposes of a federally funded grant entitled, DNA Capacity Enhancement	\$607,962
8100-9727	For the purposes of a federally funded grant entitled, Forensic Casework DNA Backlog	\$663,842
8100-9728	For the purposes of a federally funded grant entitled, Solving Cold Cases through DNA	\$500,000

Municipal Police Training Committee.

8200-0010	For the purposes of a federally funded grant entitled, Massachusetts Police Corps	\$15,000
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Department of Fire Services.

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

Military Division.

8700-0302	For the purposes of a federally funded grant entitled, Military Construction Costs in Reading	\$16,069,400
8700-1000	For the purposes of a federally funded grant entitled, Military Construction Costs in Framingham	\$8,014,704
8700-2000	For the purposes of a federally funded grant entitled, National Guard Feasibility Studies	\$260,141

Massachusetts Emergency Management Agency.

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	\$829,840
8800-0054	For the purposes of a federally funded grant entitled, Flood 10/20/06	\$2,333,770
8800-0064	For the purposes of a federally funded grant entitled, Hazard Mitigation 1364	\$1,520,166
8800-0069	For the purposes of a federally funded grant entitled, Comprehensive Environmental Response, Compensation, and Liability Act Grant	\$2,166
8800-0078	For the purposes of a federally funded grant entitled, Pre-Disaster Mitigation Program	\$648,570
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
8800-0083	For the purposes of a federally funded grant entitled, Snow Removal Declaration 3194	\$40,000,000
8800-0086	For the purposes of a federally funded grant entitled, Pre-Disaster Mitigation/Disaster Resistant University	\$220,375
8800-0087	For the purposes of a federally funded grant entitled, Pre-Disaster Mitigation Competitive Grant	\$876,970
8800-0088	For the purposes of a federally funded grant entitled, Snow Removal Declaration 3201	\$60,000,000
8800-1512	For the purposes of a federally funded grant entitled, Hazard Mitigation Program, HMPG for FEMA-DR1512	\$243,225

Department of Correction.

8903-6202	For the purposes of a federally funded grant entitled, Serious and Violent Offender Reentry Initiative	\$700,000
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8903-9709 For the purposes of a federally funded grant entitled, Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders \$110,746

Sheriffs.

8910-0118 For the purposes of a federally funded grant entitled, Life Skills for Offenders \$102,369

8910-0120 For the purposes of a federally funded grant entitled, Substance Abuse \$69,930

8910-0121 For the purposes of a federally funded grant entitled, Project TACT \$51,300

8910-0123 For the purposes of a federally funded grant entitled, Inmate Litter Program \$32,089

8910-0133 For the purposes of a federally funded grant entitled, Residential Substance Abuse \$75,899

8910-0169 For the purposes of a federally funded grant entitled, Adult Basic Supervision \$157,248

8910-0170 For the purposes of a federally funded grant entitled, Project Expand \$62,358

8910-0202 For the purposes of a federally funded grant entitled, STD/Tuberculosis \$38,185

8910-0305 For the purposes of a federally funded grant entitled, Title 1 \$249,875

8910-0320 For the purposes of a federally funded grant entitled, Violence Against Women \$10,760

8910-0369 For the purposes of a federally funded grant entitled, HIV Intervention \$39,550

8910-0370 For the purposes of a federally funded grant entitled, HIV/STD/Tuberculosis \$44,503

8910-0503 For the purposes of a federally funded grant entitled, Title 1 \$76,069

8910-0504 For the purposes of a federally funded grant entitled, Community Corrections Centers \$1,718,915

8910-0533 For the purposes of a federally funded grant entitled, Integrity Training \$75,000

8910-0607 For the purposes of a federally funded grant, entitled, Substance Abuse Continuum of Care \$249,548

8910-8001 For the purposes of a federally funded grant entitled, Vocational Education \$11,377

8910-8011 For the purposes of a federally funded grant entitled, Project TOP \$11,000

EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9110-1071	For the purposes of a federally funded grant entitled, Older American Act - Title VII Elder Abuse Prevention	\$152,812
9110-1072	For the purposes of a federally funded grant entitled, Older American Act - Title VII Ombudsman	\$302,838
9110-1073	For the purposes of a federally funded grant entitled, Older American Act - Title III Preventive Health	\$626,782
9110-1074	For the purposes of a federally funded grant entitled, Older Americans Assistance, Title III and Title VII	\$9,398,173
9110-1077	For the purposes of a federally funded grant entitled, Older Americans Act, Title III-E, National Family Caregiver Support Program	\$5,423,720
9110-1095	For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance	\$658,512
9110-1173	For the purposes of a federally funded grant entitled, Older Americans Act - Title III Nutrition Program	\$13,420,000
9110-1174	For the purposes of a federally funded grant entitled, Nutrition Services Incentive Program	\$4,074,000
9110-1178	For the purposes of a federally funded grant entitled, Community Service Employment Program	\$1,912,311
9110-1755	For the purposes of a federally funded grant entitled, State Pharmacy Assistance Program Transitional Grant	\$6,000,000
9110-2761	For the purposes of a federally funded grant entitled, Aging and Disability Resource Center- Center for Medicaid and Medicare Services	\$250,000

Fiscal Year 2006 Revenue by Source and Budgeted Fund (in Millions)

Source	All Budgeted Funds*	General Fund	Highway Fund	School Mod. and Recon. Trust	MBTA
Tax Revenue					
Alcoholic Beverages	69.6	69.6	-	-	-
Cigarettes	400.8	332.1	-	-	-
Corporations	1,160.3	1,160.3	-	-	-
Deeds	161.9	161.9	-	-	-
Estate	220.9	220.9	-	-	-
Financial Institutions	210.3	210.3	-	-	-
Income	9,527.9	9,527.9	-	-	-

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Source	All Budgeted Funds*	General Fund	Highway Fund	School Mod. and Recon. Trust	MBTA
Insurance	412.1	412.1	-	-	-
Motor Fuels	708.3	101.6	605.8	-	-
Public Utilities	59.9	59.9	-	-	-
Room Occupancy	105.3	68.4	-	-	-
Sales-Regular	2,830.5	1,845.3	-	400.8	584.4
Sales-Meals	585.4	585.4	-	-	-
Sales-Motor Vehicles	621.0	404.9	-	87.9	128.2
Miscellaneous	4.2	4.2	-	-	-
UI Surcharges	21.5	-	-	-	-
Total Taxes	17,100.0	15,164.9	605.767	488.7	712.6
Anticipated changes to tax laws	105.0	105.0	-	-	-
Enhanced audits	78.0	78.0	-	-	-
Total Changes	183.0	183.0	-	-	-
Total Taxes	17,283.0	15,347.9	605.8	488.7	712.6
SBAB Transfer	(488.7)			(488.7)	
MBTA Transfer	(712.6)				(712.6)
Pension Transfer	(1,274.7)	(1,274.7)	-	-	-
Total Taxes for Budget	14,807.0	14,073.2	605.8	-	-
Non-Tax Revenue					
Federal Reimbursements	5,263.0	4,933.4	3.6	-	-
Departmental Revenues	1,969.2	1,489.4	444.2	-	-
Consolidated Transfers	1,394.6	2,100.3	(0.3)	-	-
GRAND TOTAL REVENUE FOR BUDGET					
	23,433.8	22,596.3	1,053.3	-	-

* Includes revenue deposited into and transfers out of the Workforce Training Fund, Mass Tourism Fund, Federal Medicaid Assistance Percentage (FMAP) Fund, Inland Fish and Game Fund, and Stabilization Fund.

SECTION 1B. The comptroller shall keep a distinct account of actual receipts of

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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 12 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.

Non-Tax Revenue: Department Summary

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Judiciary			
Supreme Judicial Court	\$2,500,479	\$0	\$2,500,479
Committee for Public Counsel	\$35,000	\$750,000	\$785,000
Appeals Court	\$434,503	\$0	\$434,503
Trial Court	\$73,913,900	\$37,000,000	\$110,913,900
<i>TOTALS:</i>	\$76,883,882	\$37,750,000	\$114,633,882
District Attorneys			
Northern District Attorney	\$0	\$0	\$0
Northwestern District Attorney	\$0	\$0	\$0
Eastern District Attorney	\$0	\$0	\$0
Middle District Attorney	\$0	\$0	\$0
Plymouth District Attorney	\$0	\$0	\$0
Hampden District Attorney	\$0	\$0	\$0
<i>TOTALS:</i>	(\$1)	\$0	(\$1)
Office of the Governor			
Office of the Governor	\$0	\$0	\$0
<i>TOTALS:</i>	\$0	\$0	\$0
Office of the Secretary of State			
Secretary of State	\$200,309,224	\$105,000	\$200,414,224
<i>TOTALS:</i>	\$200,309,224	\$105,000	\$200,414,224

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Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Office of the State Treasurer			
State Lottery Commission	\$1,408,690	\$0	\$1,408,690
Treasurer's Office	\$300,598,069	\$0	\$300,598,069
State Lottery Commission	\$297,047,204	\$765,031,181	\$1,062,078,385
Mass Cultural Council	\$8,900,000	\$0	\$8,900,000
<i>TOTALS:</i>	\$607,953,963	\$765,031,181	\$1,372,985,144
State Auditor's Office			
State Auditor's Office	\$0	\$0	\$0
<i>TOTALS:</i>	\$0	\$0	\$0
Office of the Attorney General			
Attorney General	\$8,293,341	\$0	\$8,293,341
Victim Witness Assistance	\$0	\$0	\$0
<i>TOTALS:</i>	\$8,293,341	\$0	\$8,293,341
Ethics Commission			
Ethics Commission	\$31,100	\$0	\$31,100
<i>TOTALS:</i>	\$31,100	\$0	\$31,100
Office of the Inspector General			
Inspector General	\$0	\$493,819	\$493,819
<i>TOTALS:</i>	\$0	\$493,819	\$493,819
Campaign & Political Finance			
Campaign & Political Finance	\$48,000	\$0	\$48,000
<i>TOTALS:</i>	\$48,000	\$0	\$48,000
Office of the State Comptroller			
Comptroller's Office	\$74,481,598	\$750,000	\$75,231,598
<i>TOTALS:</i>	\$74,481,598	\$750,000	\$75,231,598

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Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Executive Office: Administration & Finance			
Secretary of Administration & Finance	\$1,154,749	\$0	\$1,154,749
Division of Fiscal Affairs - Fingold Library	\$61,005,229	\$0	\$61,005,229
Office of Dispute Resolution	\$868	\$0	\$868
DCAMM	\$0	\$0	\$0
Group Insurance Commission	\$19,897,206	\$13,940,000	\$33,837,206
Division of Administrative Law	\$198,370,342	\$0	\$198,370,342
M.C.A.D.	\$85,000	\$0	\$85,000
Civil Service Commission	\$2,000	\$2,556,232	\$2,558,232
Dept of Revenue	\$26,627	\$0	\$26,627
Appellate Tax Board	\$207,650,359	\$6,547,283	\$214,197,642
Human Resources Division	\$1,374,810	\$300,000	\$1,674,810
Division of Operational Services	\$12,000	\$1,577,500	\$1,589,500
BSOB	\$1,959,639	\$1,008,000	\$2,967,639
Division of Information	\$116,401	\$0	\$116,401
Veterans Affairs	\$0	\$467,837	\$467,837
	\$25,626	\$300,000	\$325,626
TOTALS:	\$491,680,856	\$26,696,852	\$518,377,708
Executive Office: Environmental Affairs			
Dept of Conservation and Recreation	\$4,140,780	\$0	\$4,140,780
Secretary of Environmental Affairs	\$1,487,600	\$375,000	\$1,862,600
Dept of Conservation and Recreation	\$6,014,748	\$4,454,826	\$10,469,574
Dept of Environmental Affairs	\$42,826,682	\$1,200,000	\$44,026,682
Fish/Wildlife Environmental	\$11,976,545	\$217,989	\$12,194,534
Dept of Conservation and Recreation	\$4,126,276	\$3,175,000	\$7,301,276
Recreation			
Dept of Food & Agriculture	\$4,369,614	\$0	\$4,369,614
TOTALS:	\$74,942,245	\$9,422,815	\$84,365,060

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Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Executive Office: Human Services			
Secretary of Human Services	\$2,628,714,145	\$291,000,000	\$2,919,714,145
Division of Health Care Finance	\$12,858,837	\$0	\$12,858,837
Mass Commission for the Blind	\$3,279,500	\$0	\$3,279,500
Mass Rehabilitation Commission	\$2,485,000	\$2,000,000	\$4,485,000
Mass Commission for the Deaf	\$183,500	\$175,000	\$358,500
Department of Early Education and Care	\$196,113,189	\$0	\$196,113,189
Chelsea Soldiers' Home	\$10,594,400	\$252,500	\$10,846,900
Holyoke Soldiers' Home	\$12,707,159	\$393,603	\$13,100,762
Dept of Youth Services	\$5,263,000	\$0	\$5,263,000
Dept of Transitional Assistance	\$413,030,310	\$3,000,000	\$416,030,310
Dept of Public Health	\$83,886,337	\$57,089,421	\$140,975,758
Dept of Social Services	\$236,962,578	\$3,000,000	\$239,962,578
Dept of Youth Services	\$0	\$0	\$0
Dept of Mental Health	\$100,016,456	\$4,625,000	\$104,641,456
Dept of Mental Retardation	\$423,171,315	\$100,000	\$423,271,315
TOTALS:	\$4,129,265,726	\$361,635,524	\$4,490,901,250
Executive Office: Transportation			
Secretary of Transportation	\$682,331	\$27,344	\$709,675
Mass Aeronautics Commission	\$426,636	\$0	\$426,636
Mass Highway	\$7,370,375	\$7,000,000	\$14,370,375
Registry of Motor Vehicles	\$430,371,700	\$10,000,000	\$440,371,700
TOTALS:	\$438,851,042	\$17,027,344	\$455,878,386
Board of Library Commissioners			
Board of Library Commissioners	\$1,500	\$0	\$1,500
TOTALS:	\$1,500	\$0	\$1,500
Labor, Education and Development			
Office of Director of Labor	\$1,721,274	\$152,850	\$1,874,124
Dept of Industrial Accidents	\$19,797,346	\$0	\$19,797,346
Labor Relations Commission	\$250	\$0	\$250

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Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Board of Conciliation & Arbitration	\$85,000	\$0	\$85,000
Office of Housing and Community Development	\$2,584,560	\$1,500,000	\$4,084,560
Director of Consumer Affairs	\$0	\$0	\$0
Secretary of Economic Affairs	\$3,000	\$0	\$3,000
Division of Banks	\$14,308,605	\$0	\$14,308,605
Division of Insurance	\$67,301,353	\$0	\$67,301,353
Division of Registration	\$13,296,290	\$6	\$13,296,296
Division of Standards	\$1,286,325	\$929,100	\$2,215,425
Dept of Public Utilities	\$15,093,388	\$75,000	\$15,168,388
Alcohol Beverages Control	\$3,628,580	\$0	\$3,628,580
State Racing Commission	\$4,640,351	\$0	\$4,640,351
Division of Energy Resources	\$1,570,542	\$0	\$1,570,542
Department of Education	\$9,245,500	\$0	\$9,245,500
Higher Education	\$30,619,855	\$529,843	\$31,149,698
University of Massachusetts	\$53,016,977	\$0	\$53,016,977
TOTALS:	\$238,199,195	\$3,186,799	\$241,385,994
Executive Office of Public Safety			
Secretary of Public Safety	\$0	\$368,000	\$368,000
Chief Medical Examiner	\$122,000	\$1,000,000	\$1,122,000
Criminal History Systems Board	\$4,969,845	\$185,000	\$5,154,845
Dept of State Police	\$565,000	\$18,250,000	\$18,815,000
Criminal Justice Training Council	\$0	\$1,363,500	\$1,363,500
Dept of Public Safety	\$16,829,740	\$1,780,000	\$18,609,740
Dept of Fire Services	\$106,208	\$0	\$106,208
Merit Rating Board	\$36,000	\$0	\$36,000
Sex Offender Registry Board	\$280	\$750,000	\$750,280
Military Division	\$1,000	\$400,000	\$401,000
Emergency Management	\$823,684	\$0	\$823,684
Dept of Corrections	\$11,569,521	\$5,600,000	\$17,169,521
Sheriff's Department Franklin	\$69,842	\$1,400,000	\$1,469,842
Sheriff's Department Berkshire	\$29,284	\$0	\$29,284
Sheriff's Department Berkshire	\$0	\$150,000	\$150,000

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Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Sheriff's Department Essex	\$708,400	\$2,000,000	\$2,708,400
Sheriff's Department Hampden	\$346,323	\$1,030,000	\$1,376,323
Sheriff's Department Middlesex	\$202,400	\$925,000	\$1,127,400
Sheriff's Department Hampshire	\$187,750	\$163,000	\$350,750
Sheriff's Department Worcester	\$160,800	\$0	\$160,800
Parole Board	\$4,000	\$600,000	\$604,000
Sheriff's Department	\$0	\$0	\$0
<i>TOTALS:</i>	\$36,732,077	\$35,964,500	\$72,696,577
Executive Office of Elder Affairs			
Secretary of Elder Affairs	\$991,013,965	\$0	\$991,013,965
<i>TOTALS:</i>	\$991,013,965	\$0	\$991,013,965
Legislature			
House of Representatives	\$0	\$0	\$0
Joint Legislative	\$0	\$0	\$0
Senate	\$0	\$0	\$0
<i>TOTALS:</i>	\$0	\$0	\$0
Total Non-Tax Revenue:	\$7,368,687,716	\$1,258,063,834	\$8,626,751,550

SECTION 3. Notwithstanding any general or special law to the contrary, for the fiscal year ending June 30, 2006 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 \$761,378,162 and shall be apportioned to the cities and towns in accordance with this section. 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, the total amounts to be distributed and paid to each city and town from item 0611-5500 of section 2 shall be as set forth in the following lists. The amounts to be distributed from said item 0611-5500 of said section 2 shall be in full satisfaction of the amounts due under section 37 of chapter 21 of the General Laws.

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Notwithstanding section 2 of chapter 70 of the General Laws or any other general or special law to the contrary, except for section 12B of chapter 76 and section 89 of chapter 71 of the General Laws, for fiscal year 2006 the total amounts to be distributed and paid to each city and town from item 7061-0008 of section 2 shall be as set forth in the following lists. The specified amounts to be distributed from said item 7061-0008 of said section 2 shall be in full satisfaction of the amounts due under sections 3, 6 and 7 of chapter 70 of the General Laws, in this section called chapter 70 aid. For fiscal year 2006, in the calculation of the foundation budget for each district, no school district shall have a wage adjustment factor less than one. Minimum required local contributions for fiscal year 2006 shall be calculated as for house bill 1, as submitted by the governor in January of 2005, and shall equal preliminary local contribution in fiscal year 2005 increased or decreased by the municipal revenue growth factor. For the purposes of calculating municipal revenue growth factors, general revenue sharing aid for every city and town shall be calculated based on the amount of assistance from the Commonwealth budgeted in house bill 1, as submitted by the governor in January of 2005. For fiscal year 2006, 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. Additional aid shall be added such that every operational district receives an increase over fiscal year 2005, which is at least equal to \$50 per student. No district shall receive chapter 70 aid in an amount greater than the district's foundation budget. If there is a conflict between the language of this section and the distribution listed below, the distribution below shall control.

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.

In fiscal years 2007 and thereafter, if the closure of a power plant results in the loss of property tax and, in the fiscal year before its closure, that power plant represented 20 per cent or more of the tax levy on industrial property in any city or town, the department of education shall reduce that city or town's required local contribution to its local school district, as determined by the department in accordance with chapter 70 of the General Laws, proportionally the department shall determine the per cent of total municipal revenue expended for school purposes, apply said percentage to the amount of the total commercial, industrial, and real property tax attributable to the closed plant paid to the city or town in the previous fiscal year, and shall reduce the minimum required contribution by said amount. For each school district affected by the reduction in minimum contribution for said city or town, the department shall calculate the amount of aid necessary to offset the loss of local spending, and shall increase prior-year chapter 70 aid by that amount when calculating chapter 70 aid due in the following fiscal year. Under no circumstances shall changes pursuant to this paragraph result in required net school spending of the municipal school district or any school district or any district of which that town is a member, defined as the

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combination of minimum required contribution and state chapter 70 aid, below the foundation level of spending calculated by the department under chapter 70 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 the commissioner's acceptance of the prior fiscal year's annual financial reports submitted pursuant to section 43 of chapter 44 of the General Laws. 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 the secretary.

Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
ABINGTON	6,869,653	-	2,006,215
ACTON	2,723,714	29,696	1,384,060
ACUSHNET	6,049,622	23,875	1,538,089
ADAMS	-	35,042	1,998,944
AGAWAM	10,826,098	-	3,661,919
ALFORD	-	-	14,330
AMESBURY	8,455,877	-	2,003,131
AMHERST	5,572,787	222,910	7,967,674
ANDOVER	5,235,106	-	1,808,259
AQUINNAH	-	-	2,253
ARLINGTON	5,019,277	4,491,775	4,242,362
ASHBURNHAM	-	-	694,712
ASHBY	-	-	395,037
ASHFIELD	66,553	-	175,596
ASHLAND	2,710,446	291,598	1,083,867
ATHOL	-	4,377	2,256,978
ATTLEBORO	26,883,244	-	5,686,033
AUBURN	3,851,160	-	1,709,103
AVON	598,615	400,636	389,697
AYER	3,640,814	44,218	742,929
BARNSTABLE	6,420,888	-	2,101,378
BARRE	15,043	-	799,532
BECKET	48,982	8,580	79,749

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
BEDFORD	2,053,688	484,271	788,848
BELCHERTOWN	9,504,784	-	1,608,123
BELLINGHAM	7,674,956	-	1,797,134
BELMONT	3,002,919	827,483	1,690,438
BERKLEY	4,920,431	-	579,235
BERLIN	505,157	-	212,173
BERNARDSTON	-	-	270,277
BEVERLY	6,332,869	2,452,442	3,970,874
BILLERICA	13,000,488	2,349,321	4,076,834
BLACKSTONE	38,854	-	1,260,366
BLANDFORD	34,879	-	121,104
BOLTON	5,341	-	189,415
BOSTON	203,634,716	164,211,152	60,545,688
BOURNE	4,520,605	352,555	1,196,257
BOXBOROUGH	1,318,163	-	245,334
BOXFORD	1,491,957	36,411	461,291
BOYLSTON	399,441	-	347,331
BRAINTREE	4,903,921	3,378,041	3,135,580
BREWSTER	847,877	-	394,419
BRIDGEWATER	88,168	-	3,214,924
BRIMFIELD	892,998	-	373,042
BROCKTON	110,310,059	4,310,392	17,871,219
BROOKFIELD	1,322,058	-	492,651
BROOKLINE	5,214,247	3,497,741	3,756,449
BUCKLAND	-	-	273,378
BURLINGTON	3,726,894	1,386,400	1,541,743
CAMBRIDGE	7,122,205	17,956,060	7,539,008
CANTON	2,658,680	878,002	1,452,568
CARLISLE	625,736	14,729	213,167
CARVER	9,266,231	-	1,462,105
CHARLEMONT	66,503	-	164,466
CHARLTON	6,065	-	1,278,640
CHATHAM	477,225	-	162,212
CHELMSFORD	6,876,856	2,535,342	3,133,208
CHELSEA	42,000,702	3,396,864	5,529,762
CHESHIRE	263,936	-	547,702

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
CHESTER	89,300	-	170,608
CHESTERFIELD	85,640	-	129,893
CHICOPEE	37,613,808	1,195,616	10,214,460
CHILMARK	-	-	3,818
CLARKSBURG	1,478,268	13,114	354,801
CLINTON	8,894,104	175,517	2,218,670
COHASSET	1,220,623	166,099	404,930
COLRAIN	-	-	240,549
CONCORD	1,639,230	383,959	905,186
CONWAY	563,283	-	170,055
CUMMINGTON	32,728	-	77,040
DALTON	142,474	-	997,874
DANVERS	3,753,262	1,118,972	1,977,016
DARTMOUTH	8,320,190	-	2,551,974
DEDHAM	3,188,974	1,550,298	2,123,808
DEERFIELD	712,360	-	485,720
DENNIS	-	-	547,447
DEVENS	328,000	-	-
DIGHTON	-	-	696,943
DOUGLAS	6,600,404	-	703,677
DOVER	363,450	-	201,066
DRACUT	14,241,937	-	3,552,641
DUDLEY	-	-	1,529,079
DUNSTABLE	-	30,076	199,538
DUXBURY	2,814,514	-	924,732
EAST BRIDGEWATER	9,416,257	-	1,498,285
EAST BROOKFIELD	72,979	-	274,820
EAST LONGMEADOW	3,415,856	-	1,393,766
EASTHAM	252,704	-	149,688
EASTHAMPTON	7,061,164	108,874	2,709,785
EASTON	7,668,207	-	2,189,049
EDGARTOWN	343,128	28,507	45,782
EGREMONT	-	-	64,113
ERVING	257,384	13,150	60,069
ESSEX	-	33,828	228,131
EVERETT	20,857,067	4,084,357	3,589,700

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
FAIRHAVEN	6,900,864	391,434	1,997,821
FALL RIVER	88,654,097	2,290,951	22,340,906
FALMOUTH	4,439,706	-	1,402,893
FITCHBURG	36,443,198	214,811	8,391,390
FLORIDA	420,540	-	50,857
FOXBOROUGH	6,200,106	-	1,540,251
FRAMINGHAM	8,530,320	4,697,500	6,321,058
FRANKLIN	23,359,339	-	2,480,524
FREETOWN	920,190	-	966,659
GARDNER	18,123,386	120,747	4,099,199
GEORGETOWN	3,428,300	52,998	682,705
GILL	-	-	213,486
GLOUCESTER	5,446,302	1,923,054	2,548,808
GOSHEN	71,847	-	74,365
GOSNOLD	8,396	1,962	535
GRAFTON	5,916,246	-	1,569,513
GRANBY	3,480,552	-	861,556
GRANVILLE	1,194,161	-	148,427
GREAT BARRINGTON	-	-	777,629
GREENFIELD	8,732,668	-	3,135,650
GROTON	-	-	749,057
GROVELAND	-	-	650,645
HADLEY	625,061	138,341	334,468
HALIFAX	2,352,215	-	920,146
HAMILTON	-	42,887	614,829
HAMPDEN	-	-	610,721
HANCOCK	178,649	17,638	39,502
HANOVER	4,695,733	1,326,394	1,071,732
HANSON	28,480	-	1,227,101
HARDWICK	-	3,228	397,087
HARVARD	1,207,690	55,090	1,699,036
HARWICH	1,441,302	-	435,031
HATFIELD	619,676	-	313,003
HAVERHILL	31,984,671	2,503,145	7,879,580
HAWLEY	27,325	12,924	30,356
HEATH	-	-	70,392

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
HINGHAM	3,340,480	334,151	1,357,736
HINSDALE	75,997	-	210,751
HOLBROOK	4,191,804	4,757	1,539,108
HOLDEN	-	-	1,698,616
HOLLAND	664,264	-	188,910
HOLLISTON	5,943,729	412,300	1,243,934
HOLYOKE	61,015,564	606,646	9,570,845
HOPEDALE	5,057,500	-	655,503
HOPKINTON	4,841,117	120,287	666,821
HUBBARDSTON	8,448	-	366,989
HUDSON	5,370,695	-	2,056,388
HULL	3,687,093	1,388,549	1,068,730
HUNTINGTON	89,877	-	320,075
IPSWICH	2,066,540	775,432	1,013,997
KINGSTON	3,291,409	-	947,121
LAKEVILLE	2,146,114	-	795,296
LANCASTER	-	-	865,163
LANESBOROUGH	511,328	-	354,826
LAWRENCE	117,307,291	190,699	19,635,328
LEE	1,520,616	-	648,079
LEICESTER	8,584,389	-	1,749,536
LENOX	1,111,973	72,146	518,184
LEOMINSTER	32,722,786	11,693	5,633,456
LEVERETT	223,181	-	178,604
LEXINGTON	5,197,254	-	1,581,017
LEYDEN	-	-	75,898
LINCOLN	493,537	292,012	466,318
LITTLETON	1,464,107	164,924	580,299
LONGMEADOW	3,547,400	-	1,385,190
LOWELL	108,399,118	6,340,746	20,245,398
LUDLOW	9,615,500	-	2,909,098
LUNENBURG	3,708,907	-	1,076,641
LYNN	100,174,841	9,477,523	14,871,312
LYNNFIELD	1,760,538	362,288	768,744
MALDEN	32,462,866	5,586,730	8,399,131
MANCHESTER	-	-	237,187

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
MANSFIELD	11,432,836	725,040	1,569,286
MARBLEHEAD	3,626,744	39,403	1,154,583
MARION	338,668	-	228,167
MARLBOROUGH	6,151,638	2,728,327	3,247,829
MARSHFIELD	12,057,258	202,756	2,072,861
MASHPEE	4,044,754	-	316,873
MATTAPOISETT	473,898	-	420,149
MAYNARD	2,211,508	586,886	1,137,002
MEDFIELD	4,716,703	744,614	868,914
MEDFORD	10,251,400	6,432,448	7,106,161
MEDWAY	6,292,863	187,002	1,055,781
MELROSE	5,187,290	2,704,187	3,115,203
MENDON	-	-	395,978
MERRIMAC	-	-	744,721
METHUEN	30,471,886	163,026	5,333,014
MIDDLEBOROUGH	15,072,339	-	2,483,091
MIDDLEFIELD	-	-	47,723
MIDDLETON	1,072,302	126,570	394,823
MILFORD	9,514,224	-	3,126,582
MILLBURY	5,889,114	-	1,788,255
MILLIS	1,884,586	320,940	808,434
MILLVILLE	-	-	351,760
MILTON	3,395,206	1,245,145	2,326,448
MONROE	84,030	13,927	7,301
MONSON	6,615,987	-	1,275,553
MONTAGUE	-	-	1,241,050
MONTEREY	-	12,538	35,371
MONTGOMERY	15,516	-	82,730
MOUNT WASHINGTON	19,858	33,286	3,244
NAHANT	384,990	125,393	294,470
NANTUCKET	835,168	-	79,075
NATICK	4,176,646	1,942,474	2,336,643
NEEDHAM	3,838,948	205,993	1,619,031
NEW ASHFORD	149,556	7,313	11,670
NEW BEDFORD	104,076,980	716,255	23,075,977
NEW BRAintree	-	-	114,894

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
NEW MARLBOROUGH	-	-	57,024
NEW SALEM	-	-	96,421
NEWBURY	-	-	457,935
NEWBURYPORT	2,908,020	1,380,057	1,517,996
NEWTON	9,687,800	1,377,012	4,979,634
NORFOLK	3,290,521	-	969,577
NORTH ADAMS	13,830,276	185,853	4,355,802
NORTH ANDOVER	4,129,740	120,549	1,924,251
NORTH ATTLEBOROUGH	18,436,965	-	2,917,793
NORTH BROOKFIELD	4,395,946	-	811,376
NORTH READING	3,784,804	945,499	1,046,034
NORTHAMPTON	6,574,010	577,922	3,990,786
NORTHBOROUGH	2,584,464	61,111	1,066,290
NORTHBRIDGE	12,970,825	3,071	2,214,906
NORTHFIELD	-	-	306,828
NORTON	11,977,480	-	2,080,708
NORWELL	1,917,412	541,079	659,338
NORWOOD	3,544,044	2,665,880	2,588,691
OAK BLUFFS	546,635	-	72,992
OAKHAM	64,189	-	179,134
ORANGE	4,911,542	2,115	1,618,719
ORLEANS	225,962	-	179,561
OTIS	-	-	32,639
OXFORD	8,477,240	-	2,108,359
PALMER	10,232,925	-	1,929,644
PAXTON	81,530	-	464,277
PEABODY	18,728,280	3,140,276	4,834,179
PELHAM	118,053	-	154,807
PEMBROKE	8,469,224	-	1,691,756
PEPPERELL	7,762	-	1,281,720
PERU	37,021	-	107,186
PETERSHAM	334,214	-	111,343
PHILLIPSTON	-	4,386	166,054
PITTSFIELD	28,114,213	880,284	7,873,936
PLAINFIELD	18,987	-	46,588
PLAINVILLE	2,374,850	-	761,561

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
PLYMOUTH	16,749,443	-	3,856,040
PLYMPTON	489,958	-	239,283
PRINCETON	-	-	298,687
PROVINCETOWN	255,801	22,181	133,931
QUINCY	12,561,073	11,567,002	10,170,020
RANDOLPH	10,420,471	1,825,854	3,799,577
RAYNHAM	-	-	1,117,382
READING	6,290,157	1,534,901	2,083,179
REHOBOTH	-	-	929,321
REVERE	24,103,591	5,334,444	6,118,567
RICHMOND	321,695	-	112,155
ROCHESTER	1,329,980	-	419,284
ROCKLAND	8,952,545	394,336	2,394,662
ROCKPORT	1,194,221	-	448,744
ROWE	45,295	-	4,116
ROWLEY	-	114,232	450,684
ROYALSTON	-	-	151,243
RUSSELL	150,478	-	232,071
RUTLAND	8,945	-	786,403
SALEM	10,536,330	3,298,731	4,204,299
SALISBURY	-	-	626,191
SANDSFIELD	-	-	32,017
SANDWICH	5,651,356	88,406	998,119
SAUGUS	3,538,314	1,784,087	2,279,397
SAVOY	461,223	13,801	101,914
SCITUATE	3,580,818	875,037	1,376,395
SEEKONK	3,044,575	-	1,231,670
SHARON	6,270,630	62,495	1,373,743
SHEFFIELD	9,370	11,938	226,815
SHELburne	-	-	260,063
SHERBORN	340,731	20,951	204,867
SHIRLEY	3,995,219	185,558	1,158,884
SHREWSBURY	13,800,607	298,861	2,493,603
SHUTESBURY	465,653	-	157,661
SOMERSET	2,685,723	-	1,485,839
SOMERVILLE	19,725,439	16,219,924	11,873,047

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
SOUTH HADLEY	5,531,820	20,214	2,575,191
SOUTHAMPTON	2,294,612	-	600,926
SOUTHBOROUGH	2,581,627	-	430,492
SOUTHBRIDGE	14,736,612	-	3,518,892
SOUTHWICK	-	-	1,109,419
SPENCER	211,971	-	2,023,061
SPRINGFIELD	225,364,023	1,829,496	34,917,280
STERLING	-	-	689,449
STOCKBRIDGE	-	-	104,544
STONEHAM	2,769,263	2,028,958	2,166,441
STOUGHTON	8,780,857	103,134	3,260,604
STOW	-	6,974	422,148
STURBRIDGE	1,078,308	-	761,611
SUDBURY	3,502,825	641,561	895,816
SUNDERLAND	843,699	-	485,648
SUTTON	4,751,948	-	774,496
SWAMPSCOTT	2,051,980	352,328	1,025,636
SWANSEA	4,075,231	-	1,902,642
TAUNTON	40,629,887	-	8,650,863
TEMPLETON	-	-	1,216,556
TEWKSBURY	11,930,760	-	2,878,070
TISBURY	300,736	-	102,583
TOLLAND	-	9,864	7,144
TOPSFIELD	663,179	253,284	420,832
TOWNSEND	7,561	-	1,170,761
TRURO	221,477	-	30,294
TYNGSBOROUGH	6,567,408	-	940,952
TYRINGHAM	30,874	-	13,038
UPFON	6,880	-	493,280
UXBRIDGE	8,978,422	-	1,407,687
WAKEFIELD	4,066,920	1,438,080	2,321,465
WALES	600,096	-	228,904
WALPOLE	4,500,224	883,775	1,888,950
WALTHAM	5,965,643	5,458,868	5,384,580
WARE	7,097,968	15,257	1,686,770
WAREHAM	11,226,580	-	2,056,326

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
WARREN	353,720	-	744,853
WARWICK	-	28,890	85,653
WASHINGTON	18,553	23,752	67,591
WATERTOWN	2,500,104	4,427,251	2,985,651
WAYLAND	2,433,825	280,373	697,171
WEBSTER	7,399,344	62,006	2,423,909
WELLESLEY	3,170,547	96,838	1,291,447
WELLFLEET	123,912	-	61,433
WENDELL	-	25,534	136,058
WENHAM	-	139,794	324,620
WEST BOYLSTON	2,604,355	67,754	715,509
WEST BRIDGEWATER	1,620,336	47,212	630,815
WEST BROOKFIELD	143,754	-	464,842
WEST NEWBURY	-	-	286,681
WEST SPRINGFIELD	13,445,170	-	3,434,216
WEST STOCKBRIDGE	-	-	102,308
WEST TISBURY	-	182,434	35,761
WESTBOROUGH	2,766,041	145,058	1,019,076
WESTFIELD	29,644,636	-	6,086,553
WESTFORD	11,305,202	895,514	1,395,228
WESTHAMPTON	286,065	-	141,055
WESTMINSTER	-	-	633,434
WESTON	1,480,950	-	389,997
WESTPORT	4,035,010	-	1,265,913
WESTWOOD	2,250,702	36,263	721,560
WEYMOUTH	19,644,236	2,424,084	7,157,531
WHATELY	131,053	-	128,172
WHITMAN	87,102	-	2,173,749
WILBRAHAM	-	-	1,292,027
WILLIAMSBURG	359,184	-	310,086
WILLIAMSTOWN	900,860	-	965,094
WILMINGTON	3,493,483	1,254,452	1,462,136
WINCHENDON	9,746,972	25,366	1,621,395
WINCHESTER	3,131,321	344,404	1,259,850
WINDSOR	18,987	28,020	69,318
WINTHROP	4,649,575	2,287,531	2,517,404

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
WOBURN	4,733,853	3,586,952	3,196,439
WORCESTER	161,059,359	11,809,090	31,677,260
WORTHINGTON	69,958	-	117,632
WRENTHAM	3,446,005	-	959,804
YARMOUTH	-	-	1,258,543
Total Aid to Regional Schools	528,917,959		
Total	3,288,931,061	378,517,988	761,378,162

Regional School	7061-0008 Chapter 70
ACTON BOXBOROUGH	3,138,512
ADAMS CHESHIRE	9,630,920
AMHERST PELHAM	9,343,785
ASHBURNHAM WESTMINSTER	8,905,601
ASSABET VALLEY	2,477,600
ATHOL ROYALSTON	16,820,492
BERKSHIRE HILLS	2,672,817
BERLIN BOYLSTON	790,482
BLACKSTONE MILLVILLE	10,378,194
BLACKSTONE VALLEY	4,881,250
BLUE HILLS	3,073,959
BRIDGEWATER RAYNHAM	19,283,254
BRISTOL PLYMOUTH	1,792,774
BRISTOL PLYMOUTH	6,961,382
CAPE COD	1,812,921
CENTRAL BERKSHIRE	7,747,832
CHESTERFIELD GOSHEN	646,741
CONCORD CARLISLE	1,482,929
DENNIS YARMOUTH	6,323,844
DIGHTON REHOBOTH	11,331,127
DOVER SHERBORN	1,191,754
DUDLEY CHARLTON	21,174,932

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Regional School	7061-0008 Chapter 70
ESSEX COUNTY	3,686,222
FARMINGTON RIVER	375,506
FRANKLIN COUNTY	2,670,649
FREETOWN LAKEVILLE	6,460,005
FRONTIER	2,650,507
GATEWAY	5,377,752
GILL MONTAGUE	5,898,326
GREATER FALL RIVER	11,587,076
GREATER LAWRENCE	17,354,467
GREATER LOWELL	17,303,519
GREATER NEW BEDFORD	18,124,740
GROTON DUNSTABLE	9,690,045
HAMILTON WENHAM	3,164,291
HAMPDEN WILBRAHAM	9,591,950
HAMPSHIRE	2,426,572
HAWLEMONT	613,735
KING PHILIP	6,244,524
LINCOLN SUDBURY	1,787,678
MANCHESTER ESSEX	1,375,984
MARTHAS VINEYARD	2,673,935
MASCONOMET	4,419,317
MENDON UPTON	9,708,625
MINUTEMAN	2,078,300
MOHAWK TRAIL	5,972,084
MONTACHUSETT	8,853,095
MOUNT GREYLOCK	1,666,950
NARRAGANSETT	8,750,124
NASHOBA	5,332,823
NASHOBA VALLEY	1,931,065
NAUSET	3,212,073
NEW SALEM WENDELL	602,215
NORFOLK COUNTY	605,728
NORTH MIDDLESEX	19,063,721
NORTH SHORE	1,440,224
NORTHAMPTON SMITH	738,534
NORTHBORO SOUTHBORO	1,700,728
NORTHEAST METROPOLITAN	5,436,446
NORTHERN BERKSHIRE	3,385,704

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Regional School	Chapter 70
OLD COLONY	2,546,991
OLD ROCHESTER	1,530,510
PATHFINDER	3,310,654
PENTUCKET	12,362,390
PIONEER	3,857,345
QUABBIN	15,657,112
QUABOAG	7,574,888
RALPH C MAHAR	4,365,173
SHAWSHEEN VALLEY	3,136,057
SILVER LAKE	5,693,535
SOUTH MIDDLESEX	2,167,094
SOUTH SHORE	2,298,687
SOUTHEASTERN	9,542,955
SOUTHERN BERKSHIRE	1,733,974
SOUTHERN WORCESTER	5,332,331
SOUTHWICK TOLLAND	7,241,643
SPENCER EAST BROOKFIELD	12,578,370
TANTASQUA	6,707,029
TRI COUNTY	3,446,914
TRITON	7,792,908
UPISLAND	787,574
UPPER CAPE COD	2,593,253
WACHUSETT	14,580,116
WHITMAN HANSON	21,432,182
WHITTIER	4,829,933
Regional Total	528,917,959

SECTION 4. Section 51 of chapter 7 of the General Laws is hereby repealed.

SECTION 5. Chapter 75 of the General Laws is hereby amended by adding the following section:-

Section 46. There shall be at the University of Massachusetts at Boston an office of dispute resolution under the supervision and control of a director who shall be appointed by the provost with the approval of the chancellor and concurrence of the board of trustees. The director shall be a person with substantial training and professional experience in dispute resolution, shall maintain complete impartiality with respect to the matters coming before the office of dispute resolution, and shall devote full time to the duties of the office.

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The office of dispute resolution shall be available to assist agencies and offices of the executive, legislative, and judicial branches of the commonwealth, as well as any political subdivision or public instrumentality created by the commonwealth or any county, city, or town, hereafter referred to as public agencies, to improve the resolution of disputes that arise within their respective jurisdictions. The office may: (a) facilitate the resolution of disputes through provision of impartial mediation and other dispute resolution services; (b) establish standards for the selection, assignment, and conduct of persons acting on behalf of the office in the resolution of disputes; (c) conduct educational programs and provide other services designed to reduce the occurrence, scope, complexity, or cost of disputes; (d) design, develop, or operate dispute resolution programs or to assist public agencies to improve or extend their existing dispute resolution programs; and (e) take other action to promote and facilitate dispute resolution by public agencies in the commonwealth. The director may establish reasonable fees to be charged to parties, litigants, or public agencies for the provision of the educational, consultation, dispute resolution, or other services authorized herein and may apply for and accept on behalf of the commonwealth any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or activities of the office. Fees, grants, bequests, gifts, or contributions shall be received by the University of Massachusetts at Boston and deposited in a separate account and shall be expended, without further appropriation, at the direction of the director, with the approval of the provost, for the cost of operation of the office, including personnel. The office may make agreements with public agencies and officers and may contract with other persons, including private agencies, corporations, or associations, to carry out any of the functions and purposes of this section. The office shall annually prepare a report on the activities of the office, including all income and expenditures, and file the report with the house and senate committees on ways and means on or before December 31.

SECTION 6. Section 39C of chapter 112 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- A registered entity shall be considered a retail pharmacy and not a provider of institutional, residential, or long-term care services.

SECTION 7. Section 18 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out subsection (o) and inserting in place thereof the following subsection:-

(o) Within the Uncompensated Care Trust Fund, there shall be established a medical assistance account, administered by the secretary of health and human services, consisting of any funds directed to the commonwealth from public entities and federal reimbursements related to medical assistance payments funded by this account. All amounts credited to this account shall be held in trust and shall be available for expenditure by the secretary to be used for medical assistance payments to entities authorized by the general court, and for which a public entity has contractually agreed to direct funds to the account. Any amount in excess of such medical assistance payments may be credited to the General Fund and the amount of all such expenditures shall be subject to annual approval by the general court. The

maximum payments from the account shall not exceed those permissible for federal reimbursement under Title XIX or Title XXI of the Social Security Act or any successor federal law. The comptroller may make payments, including payments during the accounts payable period, in anticipation of revenues, including receivables due and collectibles during the months of July and August, and shall establish procedures for reconciling overpayments or underpayments from the account. Such procedures shall include, but not be limited to, appropriate mechanisms for refunding public funds directed to the account and federal reimbursements upon recoupment of any such overpayments. The executive office of health and human services shall ensure that the division of health care finance and policy is informed regarding revenue and expenditure activity within the account and submit to the secretary of administration and finance and the house and senate committees on ways and means a schedule of such payments 10 days before any expenditures, and no funds shall be expended without an enforceable agreement with or legal obligation imposed upon a public entity to make an intergovernmental transfer in an appropriate amount to the account.

SECTION 8. Chapter 175 of the acts of 1998 is hereby amended by striking out section 25, as amended by section 1 of chapter 172 of the acts of 1999, and inserting in place thereof the following section:-

Section 25. Sections 3A, 20A, and 21A shall take effect on December 31, 2008.

SECTION 9. Chapter 141 of the acts of 2003 is hereby amended by striking out section 79 and inserting in place thereof the following section:-

Section 79. Section 11 shall take effect on December 31, 2008.

SECTION 10. Section 10 of chapter 152 of the acts of 1997 is hereby 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 fiscal year 2004 and that same amount in each fiscal year thereafter of the authority as defined in section 35 of said chapter 190.

SECTION 11. Chapter 443 of the acts of 2004 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. 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 shall convey a certain parcel of state-owned land in the city of Revere to Joseph A. Festa, Jr. and John V. Festa, Trustees of the Festa Towers Irrevocable Trust for parking purposes only.

The parcel of land is located on Revere Beach boulevard and is shown as 19,125 square feet, more or less, and shown as "Map-Block-Parcel-Unit 2-140-004 on a plan of land of Revere, Mass", dated April 3, 2000, and drawn by Albert A. Romano. The exact boundaries of the parcel shall be determined by the commissioner after completion of a survey.

SECTION 12. Notwithstanding any general or special law to the contrary, the executive office of health and human services, pursuant to section 16 of chapter 6A of the General Laws, acting in its capacity as the single state agency under Title XIX of the Social Security Act, and other federally assisted programs administered by said secretariat, and as the principal agency for all of the agencies within the secretariat, is authorized to enter into interdepartmental services agreements with the University of Massachusetts medical school to perform such activities as the secretary, in consultation with the comptroller, determines are appropriate and within the scope of the proper administration of said Title XIX and other federal funding provisions to otherwise support the programs and activities of the executive office. Such activities shall include: (1) provision of administrative services, including, but not limited to, activities such as providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case

management activities, and similar initiatives; (2) consulting services related to quality assurance, program evaluation and development, integrity and soundness, and project management; and (3) activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third party liability, and recouping payments to third parties. Federal reimbursement for any expenditures made by the University of Massachusetts medical school relative to federally-reimbursable services provided by the University under said interdepartmental service agreements or other contracts with the executive office shall be distributed to said university. The secretary may negotiate contingency fees for activities and services related to the purpose of pursuing federal reimbursement or avoiding costs, and the comptroller shall be directed to certify said fees and pay upon the receipt of such revenue, reimbursement, or demonstration of costs avoided; provided, however, that the secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2006. The secretary of health and human services shall submit to the secretary of administration and finance and the house and senate committees on ways and means a quarterly report detailing the amounts of the agreements, the ongoing and new projects undertaken by the university, the amounts spent on personnel, and the amount of federal reimbursement and recoupment payments that said university was able to collect.

SECTION 13. 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 coverage under Title XIX of the Social Security Act 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 agencies or providers shall forward client information collected under this section to the executive office of health and human services and this 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. As required or permitted by federal law, the executive office of health and human services shall return the results of any data matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. These actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources. The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause. The executive office of health and human services and the division of procurement 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 14. Notwithstanding any general or special law to the contrary, the executive office of health and human services may promulgate regulations allowing any dentist

participating in the MassHealth program to limit the number of MassHealth patients in his practice in accordance with standards or procedures to be established by the executive office of health and human services.

SECTION 15. Notwithstanding any general or special law to the contrary, the department of mental health, the department of public health, the executive office of health and human services 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 requirements of Title XIX of the Social Security Act. 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 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 executive office of health and human services, the department of public health and the department of mental health may expend amounts transferred to them from a separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken under this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to effectuate this section, including procedures for the proper accounting and expenditure of funds under this section.

SECTION 16. Notwithstanding any general or special law to the contrary, during fiscal year 2006, the executive office of health and human services shall expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount equal to the actual amount paid for fiscal year 2005 for a program of MassHealth supplemental payments to certain publicly-operated entities providing Title XIX of the Social Security Act reimbursable services, directly or through contracts with hospitals, under an agreement with the executive office, relating to such payments and transfers as established in accordance with said Title XIX 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 2006. The 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 executive office shall notify the house and senate committees on ways and means if the 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 authorized for 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 the medical assistance intergovernmental transfer account an amount equal to 55 per cent of the gross amounts of supplemental payments made by the executive office under managed care contracts with the commissions. An amount equal to 9.09 per cent of the total amount that the Boston and Cambridge public health commissions transfer to the medical assistance intergovernmental transfer account pursuant to this section shall be transferred from the medical assistance intergovernmental transfer account and credited to the Distressed Provider Expendable Trust Fund.

SECTION 17. Notwithstanding any general or special law to the contrary, the executive office of health and human services 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 of the Social Security Act requirements, for low-income 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 executive office and the division which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established by section 18 of said chapter 118G, or authorize the division to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G or funds otherwise made available to said trust fund by the general court, to the executive office 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 Title XIX. The executive office may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division 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 into 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 18. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the office of the state treasurer, the executive office for administration and finance, and the executive office of health and human services, develop a schedule for transferring the unexpended balance from account 4000-0896 in the state accounting system to the Uncompensated Care Trust Fund for the purpose of making revenues available for the administration of the uncompensated care pool, under subsection

(d) of section 18 of chapter 118G of the General Laws, and pursuant to the provisions of this act. Said schedule shall make said transfers in increments as deemed appropriate to meet the cash flow needs of the commonwealth and said uncompensated care pool; provided, that said transfers shall not begin before October 1, 2005 and shall be completed on or before June 30, 2006.

SECTION 19. Notwithstanding any general or special law to the contrary, the comptroller shall transfer on or before October 1, 2005, the greater of \$30,000,000 or one-twelfth of the total expenditures to be made to hospitals and community health centers pursuant to this act, 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, 2005. Said payments shall be made, without further appropriation, to hospitals prior to and in anticipation of the payment by hospitals of their gross liability to the Uncompensated Care Trust Fund. The comptroller shall transfer from the Uncompensated Care Trust Fund to the General Fund, not later than June 30, 2006, the amount of the transfer authorized herein and any allocation thereof as certified by the commissioner of the division of health care finance and policy.

SECTION 20. Notwithstanding any general or special law to the contrary, during fiscal year 2006, 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 2006 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts v. Philip Morris, Inc., et. al., Middlesex Superior Court, No. 95-7378, and 50 per cent of the earnings generated in fiscal year 2006 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 21. Notwithstanding any general or special law to the contrary, pension benefits funded through item 0612-2000 in fiscal year 2004 shall be funded from the Pension Reserves Investment Trust Fund, established by subdivision (8) of section 22 of chapter 32 of the General Laws. The state treasurer shall report to the house and senate committees on ways and means not later than November 15, 2005, on the benefits funded pursuant to this section. This report shall list the amount of benefits received by each individual through this funding in fiscal year 2005 and the amount of benefits projected to be received by each individual through this funding in fiscal year 2006.

SECTION 22. (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 agencies of state government from the transferor agency to the transferee agency, defined as follows:-

(1) the early education and care functions of the department of education, as the transferor agency, to the department of early education and care, as the transferee;

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(2) the functions of the office of child care services with regard to licensure or approval and subsidy administration of child care and day care, as presently described in chapter 28A of the General Laws, but excluding the functions listed in clause (3) of this subsection, as the transferor agency, to the department of early education and care, as the transferee; and

(3) the functions of the office of child care services with regard to licensure of adoption or foster care placement agencies or residential group care facilities or temporary shelters, as the transferor agency, to the executive office of health and human services, as the transferee.

(b) Subject to appropriation, those employees to be transferred from 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 impairment of seniority, retirement, or other rights of the employee, without reduction in compensation or salary grade, and without separation of service within the meaning of said section 9A of said chapter 30 notwithstanding any change in title or duties resulting from such reorganization, 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.

(c) 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.

(d) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun and pending before each transferor agency 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.

(e) All orders, rules and regulations duly made and all licenses and 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.

(f) 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.

(g) 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 23. Notwithstanding any general or special law or regulation to the contrary, including section 407 of chapter 149 of the acts of 2004, which is superseded by this section, the executive office of health and human services shall expend, subject to the availability of federal financial participation, an amount not less than \$34,984,000 and not more than \$40,000,000 from the medical assistance intergovernmental transfer account in the Uncompensated Care Trust Fund and from allowable certified public expenditures made by the city of Quincy for the benefit of Quincy Medical Center hereinafter referred to as the hospital for supplemental Title XIX rate payments to the hospital. The payments shall be established in accordance with Title XIX of the federal Social Security Act or any successor federal statute, any regulations promulgated thereunder, and the commonwealth's title XIX state plan. No payment authorized under this section shall be made to the hospital unless: the hospital has executed the executive office's then-current acute hospital request for applications and contract; the city of Quincy makes an intergovernmental funds transfer of not more than \$5.393 million; the hospital agrees that the portion of the payment it receives pursuant to this section that is attributable to the city's intergovernmental funds transfer and the federal matching funds associated with such transfer will, when received by the hospital, not be transferred to any third party other than an agent of the hospital for investment purposes or in the ordinary course of the hospital's providing patient care services; and the hospital repays directly to the commonwealth, rather than to the city of Quincy, the entire amount of the state loan due from the city of Quincy pursuant to chapter 101 of the acts of 1999, as amended by chapter 47 of the acts of 2003. The hospital's repayment of the state loan as provided for in this section shall extinguish the city's obligation to the commonwealth under said chapters 101 and 47. The city's intergovernmental funds transfer and the proceeds of the hospital's repayment of the state loan, as provided for in this section, shall be credited to the medical assistance intergovernmental funds transfer account in the Uncompensated Care Trust Fund and shall be administered in accordance with the provisions of this section and of subsection (o) of section 18 of chapter 118G of the General Laws. Upon the hospital's payment of the state loan, the comptroller shall transfer from said account an amount that is not less than \$2,662,200 for payment to a municipality in Essex county to defray the debt resulting from the operation of a former municipally-owned hospital. Upon the hospital's payment of the state loan, the comptroller shall also transfer an amount not less than 30 per

cent of the remaining funds made available for payment to a municipality in Essex county to defray the debt resulting from the operation of a former municipally-owned hospital. The hospital's repayment of the state loan, as provided for in this section, and the division's making the supplemental payments authorized by this section may occur simultaneously. Any federal funds received by the commonwealth as a result of supplemental payments made to the hospital through certified public expenditures of the city of Quincy shall be dedicated for a payment to the city of Quincy.

SECTION 24. Notwithstanding any general or special law to the contrary, for fiscal years 2006 and thereafter, the total amount allocated for distribution to cities and towns pursuant to section 35 of chapter 10 of the General Laws shall be the sum of the amount distributed in fiscal year 2005 and: (i) in fiscal year 2006, 45 per cent of the difference between the fiscal year 2005 distribution and the amount that would otherwise be payable; (ii) in fiscal year 2007, 65 per cent of the difference between the fiscal year 2005 distribution and the amount that would otherwise be payable; (iii) in fiscal year 2008, 85 per cent of the difference between the 2005 distribution and the amount that would otherwise be payable. For fiscal year 2009 and thereafter the distribution of lottery proceeds shall be determined pursuant to section 35 of chapter 10 of the General Laws.

SECTION 25. (a) Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the president of the university shall retain all tuition for out-of-state students at the Amherst campus only and the board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of the Amherst campus to retain 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 program.

(b) All out-of-state tuition and fees received by the board of trustees at the Massachusetts College of Liberal Arts 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 may direct. The board shall ensure that no resident of Massachusetts is denied admission to the college as a result of the tuition retention program. Any balance in the trust fund or 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.

(c) All tuition and fees received by the board of trustees at 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 may direct. Any balance in the trust fund or 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.

(d) All tuition and fees received by the board of trustees at the Massachusetts Maritime Academy 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 may direct. Any balance in the trust fund or 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.

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(e) 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 respective boards of trustees for the University of Massachusetts at Amherst, the Massachusetts College of Art, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, as a direct result of the implementation of this section.

(f) The respective boards of trustees for the University of Massachusetts at Amherst, the Massachusetts College of Art, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy shall each issue a report on the progress of this initiative no later than February 1 of each year to the house and senate chairs of the joint committee on higher education, the chairs of the house and senate committees on ways and means and the executive office of administration and finance. 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.

SECTION 26. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2006, the division of health care finance and policy may 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 this section for deposit to the fund, and to make certain payments to acute hospitals and community health centers from the uncompensated care pool to offset the costs of services provided to uninsured or low income residents. The division and the executive office of health and human services may promulgate regulations to implement this section.

The division, in consultation with the executive office, shall ensure that assessment liability to the fund and payments from the uncompensated care pool are structured in a manner to secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI, or any successor federal law.

In hospital fiscal year 2006, the total liability of all acute care hospitals to the fund shall be \$160,000,000. The division shall calculate an assessment percentage rate by dividing \$160,000,000 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 2006, the total surcharge liability of surcharge payers to the Uncompensated Care Trust Fund shall be \$160,000,000. 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 shall calculate the surcharge percentage by dividing \$160,000,000 by the projected annual aggregate payments subject to surcharge, as the term "payment subject to surcharge" is defined in said section 1 of said chapter 118G.

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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 or the executive office, shall be credited to the General Fund, except that \$7,349,850 shall be deposited in the Distressed Provider Expendable Trust Fund.

All hospital payments made pursuant to this section shall be 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 law, any regulations promulgated thereunder, and the commonwealth's Title XIX state plan.

The division shall calculate an annual payment liability from the uncompensated care pool to each acute care hospital for fiscal year 2006. In determining the liability amount, the division shall:

(a)(1) calculate each hospital's actual free care cost for the 12-month period from October 1, 2003, to September 30, 2004, inclusive, by using each hospital's actual submitted free care charges to the division on the UC-04 times its ratio of costs to charges for pool fiscal year 2004;

(2) project each hospital's free care costs above for pool fiscal year 2005 by using a cost growth factor of 7.6 per cent;

(3) project each hospital's total free care costs for pool fiscal year 2006 by multiplying each hospital's pool fiscal year 2005 projected free care costs from subclause (2) by a cost growth factor of 7.6 per cent; and

(4) take into account such factors as the financial burden of hospitals that provide proportionately the largest volume of free care and 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 2006, as determined by the division using prior year data and considering the total funds available for the purpose. This fixed percentage shall not be less than 85 per cent of free care costs, as defined in said section 1 of said chapter 118G, for the 2 disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year 2003, and not less than 88 per cent of free care costs, as defined in said section 1 of said chapter 118G, for the 14 acute hospitals with the next-highest relative volume of free care costs in that year. In order to identify these 16 hospitals, the division shall rank all hospitals based on the percentage of each hospital's free care costs divided by the total free care costs of all hospitals in the commonwealth. All other acute care hospitals shall receive the highest possible percentage of free care costs given available remaining funds. The hospital fiscal year 2006 annual liability amount to each hospital shall be funded by the trust fund. This liability may be satisfied through either a disproportionate share payment or an adjustment to Title XIX service rate adjustment payment, or a combination thereof, in accordance with the terms provided for in an agreement entered into by an acute care hospital and the executive office. The comptroller, in consultation with the division and the executive office, shall transfer funds from the trust

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fund to the executive office for the purpose of the Title XIX service rate adjustment payments.

The executive office may use 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 \$70,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The executive office shall make payments from the uncompensated care pool for services provided by community health centers to low income residents. The executive office shall structure such payments to maximize allowable federal reimbursement under Title XIX. Pursuant to section 117 of chapter 140 of the acts of 2003, all Title XIX federal financial participation revenue generated by community health center payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division or the executive office, shall be retained in a separate account within the Uncompensated Care Trust Fund and expended, without further appropriation, for uncompensated care pool payments to community health centers, in addition to the amount specified in the following paragraph.

In hospital fiscal year 2006, \$466,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for in this section. In addition to the federal financial participation to be retained in, and expended from, the trust fund for community health centers pursuant to the preceding paragraph, \$56,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section and \$4,000,000 shall be credited for administrative expenses, including demonstration projects pursuant to sections 21 and 22 of chapter 47 of the acts of 1997, as amended by sections 156, 157, and 158 of chapter 184 of the acts of 2002.

In hospital fiscal year 2006, the office of the inspector general is hereby authorized to continue to expend funds appropriated in chapter 240 of the acts of 2004 from the Uncompensated Care Trust Fund for the costs associated with maintaining a pool audit unit within said office. The unit shall continue to oversee and examine the practices in emergency rooms of all Massachusetts' hospitals concerning the care of the uninsured and the resulting free care charges. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses not later than March 1, 2006. For the purposes of the audits, allowable free care services shall be as provided in chapter 118G of the General Laws and any applicable regulations.

SECTION 27. Notwithstanding any general or special law to the contrary, beginning January 1, 2006, in addition to the eligibility requirements set forth in section 39 of chapter 19A of the General Laws, to be considered eligible for the subsidized catastrophic prescription drug insurance program, hereinafter referred to as the "prescription advantage program", individuals who receive Medicare and are applying for, or are then enrolled in, the

prescription advantage program shall also be enrolled in a Medicare Part D plan, or in a Medicare Advantage plan if that plan provides prescription drug benefits equivalent to or better than Medicare Part D. In addition to the eligibility requirements set forth in said section 39 of said chapter 19A, to be considered eligible for the prescription advantage program, individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program, who may qualify for the low-income subsidy under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, hereinafter referred to as "MMA", Subpart P - Premiums and cost-sharing subsidies for low-income individuals shall apply for those subsidies. To the extent permitted by MMA and regulations promulgated thereunder and all other applicable federal law, the prescription advantage program may apply on behalf of a member for enrollment into a Medicare Part D plan or for the low-income subsidy provided under MMA and receive information about the member's Medicare eligibility and enrollment status necessary for the operation of the prescription advantage program.

Beginning January 1, 2006, for enrollees who qualify for Medicare Part D, the prescription advantage program shall provide a supplemental source of financial assistance for prescription drug costs, hereinafter referred to as "supplemental assistance" in lieu of the catastrophic prescription drug coverage provided in said section 39 of said chapter 19A. The prescription advantage program shall provide supplemental assistance for premiums, deductibles, payments and co-payments required by the Part D plan or Medicare Advantage plan. The department of elder affairs shall establish the amount of the supplemental assistance it will provide enrollees based on a sliding income scale and the coverage provided by the enrollees' Part D or Medicare Advantage plan. Residents of the commonwealth who are not eligible for Medicare will continue to be eligible for the prescription advantage program pursuant to said section 39 of chapter 19A. The executive office of elder affairs shall report quarterly, beginning not later than September 30, 2005, to the chairs of the house and senate committees on ways and means, the joint committee on health care financing and the joint committee on elder affairs on the number of prescription advantage members by income categories; the prescription advantage costs to date; the projected prescription advantage costs for the remainder of the fiscal year; and the prescription advantage members' out-of-pocket costs for formulary and nonformulary drugs. In addition, beginning March, 2006, the executive office shall also report the number of prescription advantage members enrolled in a Part D plan; the names of the Part D plans in which the members are enrolled, including the number of members enrolled in each; and the cost savings to prescription advantage specifically related to Part D involvement.

SECTION 28. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the office of the state treasurer, the executive office for administration and finance, and the executive office of health and human services, develop a schedule for making a series of transfers not to exceed \$171,900,000 from the General Fund to the Uncompensated Care Trust Fund for the purpose of making revenues available for the administration of the uncompensated care pool, established under subsection (d) of section 18 of chapter 118G of the General Laws, as appearing in the 2002 Official

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Edition. Said schedule shall make said transfers in increments as deemed appropriate to meet the cash flow needs of the commonwealth and said uncompensated care pool; provided, that said transfers shall not begin before October 1, 2005 and shall be completed on or before June 30, 2006.

SECTION 29. Notwithstanding any general or special law to the contrary, in fiscal year 2006, the division of health care finance and policy, referred to in this section as the division, 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, 2005 through June 30, 2006 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, as mandated under section 1 of chapter 42 of the acts of 2003. 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 2006:

(1) effective July 1, 2005, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes; provided, that \$9,000,000 of this amount shall be expended for purposes of reimbursing nursing facilities for up to 10 bed hold days for patients of the facility on medical and non-medical leaves of absence;

(2) effective July 1, 2005, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2005, 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 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 executive office of health and human services. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2005, 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 said executive office, in consultation with the division of health care finance and policy, that meet quality standards established by the executive office of health and human services 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 executive office of health and human services 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 of non-institutional settings and to the extent that the annual amount of \$17 million in this paragraph is not fully allocated, the division shall first provide operating or capital rate adjustments for publicly operated, urban and/or geographically isolated nursing homes;

(5) \$300,000 for the purposes of an audit of funds distributed under clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the executive office of health and human services, 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, 2006 a preliminary analysis of funds expended under this subsection in fiscal year 2006 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 section 25 of chapter 118G of the General Laws; and

(7) an amount sufficient to implement section 622 of chapter 151 of the acts of 1996;

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 division of health care finance and policy and the executive office of health and human services to provide the appropriate rate increases to nursing homes; and provided further, that any additional funds that may become available in the Health Care Quality Improvement Trust Fund due to decreased Medicaid utilization shall first fund a per-diem rate add-on for large Medicaid providers as specified in 114.2 CMR 6.06 (10) (a), as in effect on September 1, 2003 and then fund further enhanced rates to nursing homes.

SECTION 30. Notwithstanding any general or special law to the contrary, on or before June 30, 2006, the comptroller shall transfer \$600,000,000 from the Commonwealth Stabilization Fund, established pursuant to section 2H of chapter 29 of the General Laws, to the General Fund.

SECTION 31. Notwithstanding any general or special law to the contrary, in fiscal year 2006, expenditures from the Distressed Provider Expendable Trust Fund, established

by chapter 241 of the acts of 2004, shall be dedicated to efforts that are designed to improve and enhance the ability of distressed community providers to serve populations in need more efficiently and effectively, including, but not limited to, the ability to provide community-based care, clinical support and care coordination services, pharmacy management services, or other efforts to create effective coordination between hospital care and ambulatory care sites in the community. The secretary of health and human services shall develop emergency regulations governing the recommended uses of the fund in partnership with the Massachusetts League of Community Health Centers and the Massachusetts Hospital Association. The secretary shall provide a \$1,000,000 one-time grant from the fund for a specialty hospital located in Suffolk county which provides diagnosis and treatment of the eyes, ears, nose and throat. The secretary shall provide a \$1,000,000 one-time grant from the fund for a sole community hospital located in the city of Gardner providing essential community health services and access to care for low-income population in northern Worcester county. The secretary shall provide a \$750,000 one-time grant from the fund for a teaching hospital located in central Berkshire county. The secretary shall provide a \$500,000 one-time grant from the fund for a not-for-profit acute care hospital located in the northwestern-most portion of Berkshire county. The secretary shall provide a \$100,000 one-time grant from the fund for a community health center located in the city of Lynn providing health care to medically underserved and uninsured patients and which provides a 340B pharmacy program. The secretary shall provide a \$500,000 one-time grant from the fund for the Lowell Community Health Center. The secretary shall provide a \$285,000 one-time grant from the fund for a community, nonprofit, acute care regional teaching hospital located in Worcester county affiliated with the University of Massachusetts Memorial Health Care System. The secretary shall provide a \$511,000 one-time grant from the fund for a nonprofit, disproportionate share, community, acute care hospital with less than 115 beds that operates an inpatient psychiatric unit licensed by the department of mental health located in southern Worcester county affiliated with the University of Massachusetts Memorial Health Care System. The secretary shall provide a \$600,000 one-time grant from the fund for Hubbard Regional hospital. The secretary shall provide a \$750,000 one-time grant for Franklin Medical Center in the town of Greenfield. The secretary shall provide a \$3,000,000 one-time grant from the fund for a teaching hospital in Hampden County with high medicaid utilization. The secretary shall provide a \$400,000 one-time grant from the fund for a community health center located in the South Boston section of the city of Boston which operates an urgent care center and which is affiliated with the disproportionate share teaching hospital in Suffolk county with the highest volume of free care. The secretary shall provide a \$350,000 one-time grant from the fund for a community health center located in the Codman square neighborhood of the Dorchester section of the city of Boston providing health care to medically underserved patients in Dorchester that has formed an integrated health services network to provide access to primary and preventive public health services. The secretary shall provide a \$350,000 one-time grant from the fund for a community health

center located near the Fields Corner neighborhood of Dorchester, on Dorchester avenue, providing health care to medically underserved patients in Dorchester, that has formed an integrated health services network to provide access to primary and preventive public health services. The secretary shall provide a \$400,000 one-time grant from the fund for a community health center with at least 3 sites serving the medically underserved areas of Dorchester and South Boston, including at least 1 public housing project. The secretary shall provide a \$5,500,000 one-time grant from the fund 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. The secretary shall provide a \$200,000 one-time grant from the fund to a community health center serving the towns of the Outer and Lower Cape in Barnstable County for the purpose of developing a 340B pharmacy program. The secretary shall provide a \$750,000 one-time grant from the fund for a sole community hospital under the Medicare program located in Barnstable County. The secretary shall provide a \$300,000 one-time grant from the fund to a community health center serving the full range of the underserved populations throughout the mid-Cape area. The secretary shall provide a \$1,000,000 one-time grant from the fund for Wing Memorial Hospital in the town of Palmer. The secretary shall provide a \$1,000,000 one-time grant from the fund for Mary Lane Hospital in the town of Ware. The secretary shall provide a \$4,000,000 one-time grant from the fund for statewide providers with the service area of the Sisters of Providence Health System and Providence Behavioral Health Hospital. The secretary shall provide a \$750,000 one-time grant from the fund for a hospital located in Hampden county, west of the Connecticut river with under 100 beds that participates in MassHealth. The secretary shall provide a \$3,250,000 one-time grant from the fund for an acute care hospital in the city of Holyoke that is affiliated with a commonwealth-owned university medical school and that provides clinical training programs for nurses, allied health professionals and technicians through affiliations with community colleges and private universities. The secretary shall provide a \$950,000 one-time grant from the fund to a disproportionate share, acute care hospital located in the southeastern Massachusetts division of the medical assistance psychiatric service area that operates an inpatient psychiatric unit within the city of Brockton. The secretary shall provide a \$500,000 one-time grant from the fund for a community health center that serves as a family practice residency training site for a commonwealth-funded medical school and that assumed the primary care services of the former Worcester City Hospital. The secretary shall provide a \$750,000 one-time grant from the fund for a nonprofit visiting nurse association located in the city of Boston that delivers at least 30 per cent of all MassHealth reimbursed skilled nursing visits and at least 50 per cent of all MassHealth reimbursed home health aide services in Suffolk county. The secretary shall provide a \$300,000 one-time grant from the fund to inpatient behavioral health providers under contract with MassHealth's managed care contractors for mental health and substance abuse for costs associated with providing care to stuck kids. The secretary shall provide a \$500,000 one-time grant from the fund for an acute care hospital serving the Melrose and Wakefield communities that operates a family health services clinic.

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The secretary shall provide a \$500,000 one-time grant from the fund for an acute care hospital located in the city of Gloucester that is part of a health care system. The secretary shall provide a \$750,000 one-time grant for a non-teaching, community, disproportionate share, acute care hospital located in southeastern Massachusetts which provides inpatient care to over 5,000 MassHealth or MassHealth HMO patients per year. The secretary shall provide a \$500,000 one-time grant from the fund for a pediatric unit of an acute care hospital in Suffolk county in which the ratio of licensed pediatric beds to total licensed hospital beds shall exceed 0.20. The secretary shall provide a \$250,000 one-time grant from the fund to a not-for-profit, long-term acute care hospital located in the Roxbury section of the city of Boston. The secretary shall provide a \$200,000 one-time grant from the fund for Dimock Community Health Center located in the Egleston Square neighborhood in Roxbury for health care and traditional housing to medically underserved patients from the Roxbury, Dorchester and Jamaica Plain sections of the city of Boston. The secretary shall provide a \$400,000 one-time grant from the fund for a community health center located in the South End section of the city of Boston which is the largest provider of community based mental-health services and serves significant homeless and latino populations. The secretary shall provide a \$200,000 one-time grant from the fund for Whittier Street Community Health Center in Roxbury for adult and child behavioral health services to the homeless, immigrant and refugee populations. The secretary shall provide a \$1,000,000 one-time grant from the fund for a pediatric rehabilitation hospital located in Suffolk county. The secretary shall provide a \$2,000,000 one-time grant from the fund to a disproportionate share hospital provider located in the county formerly known as Essex county that has a family practice residency program in partnership with a federally qualified community health center, which program enhances the coordination of cost-effective care delivery in ambulatory settings and at the hospital to underserved populations. The secretary shall provide a \$3,500,000 one-time grant from the fund for a community health center located in the East Boston section of the city of Boston which operates both a PACE program and a 340B pharmacy program. The secretary shall provide a \$500,000 one-time grant for the North Shore Medical Center. The secretary shall provide a \$1,000,000 one-time grant from the fund for a disproportionate share teaching hospital in Worcester county for emergency mental health services. The secretary shall provide a \$250,000 one-time grant from the fund for a community health center in the North End section of the city of Boston. The secretary shall provide a \$500,000 one-time grant from the fund for a health care center located in the city of Revere and affiliated with Massachusetts General Hospital. The secretary shall provide a \$500,000 one-time grant for Waltham Community Health Center. The secretary shall provide a \$500,000 one-time grant from the fund for a hospital located in the City of Everett. The secretary shall provide a \$150,000 one-time grant from the fund for a nonprofit, acute care community hospital located in Middlesex County that serves a 25 town area extending northwest of Boston to the New Hampshire border. The secretary shall provide a \$300,000 one-time grant from the fund for a community hospital with geriatric psychiatry beds providing essential

community health services located in the town of Clinton. The secretary shall provide a \$200,000 one-time grant from the fund for an acute care hospital located in Winchester that is the number one provider of acute and emergency services to the city of Woburn. The secretary shall provide a \$200,000 one-time grant from said fund to a non-acute chronic hospital located in Hampden County, east of the Connecticut River, with less than 200 beds, that participates in MassHealth. The secretary shall provide a \$200,000 one-time grant from the fund for a community health center located on Bowdoin Street in the Dorchester neighborhood. The secretary shall provide a \$200,000 one-time grant from the fund for a community health center serving a disadvantaged population in the neighborhood of Mattapan. The secretary shall provide a \$100,000 one time grant for a community health center serving a disadvantaged, multi-lingual population in the Uphams Corner neighborhood in Dorchester. The secretary shall provide a \$100,000 one-time grant from the fund to Fenway Community Health Center located in the Fenway section of the City of Boston which provides health care to gay and lesbian populations. The secretary shall provide a \$100,000 one-time grant from the fund to South Cove Community Health Center located in the Chinatown section of the City of Boston which provides health care to immigrant and linguistically diverse populations. The secretary shall provide a \$300,000 one-time grant from the fund for Milton Hospital. The secretary shall provide a \$300,000 one-time grant from the fund shall be directed to a community hospital located in Northern Bristol County with a Medicare/Medicaid and low-income uninsured patient mix exceeding 50 per cent that provides at least 50,000 emergency room visits per annum and is the largest provider of Medicaid obstetric services in the region. The secretary shall provide a \$300,000 one-time grant from the fund for Great Brook Valley Health Center in Worcester. The secretary shall provide a \$600,000 one-time grant from the fund for a community hospital located in Norfolk county with an affiliation with a disproportionate share financially distressed community hospital located in Suffolk County with a locked inpatient adolescent psychiatric unit. The secretary shall file a report not later than November 1, 2005 to the speaker of the house of representatives, the president of the senate and to the house and senate committees on ways and means outlining the providers to be funded during fiscal year 2006 from the fund, the amount expended or to be expended for each provider under this section and the extent to which any portion of the expenditures are eligible for federal reimbursement. Any federal reimbursements received by the commonwealth for expenditures made from the fund shall be deposited into the fund.

SECTION 32. The amounts transferred pursuant to section 5B of chapter 29 of the General Laws 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

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section 102 of said chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. 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 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 33. (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, 2006. 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 will not be available for use in the next fiscal year, or that will be required to use revenues for extraordinary non school-related expenses for which it did not have to use revenues in the preceding fiscal year, or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor, may appeal to the department of revenue not later than October 1, 2005 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, 2006 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, the 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) The board of selectmen in a town, the city council in a plan E city, the mayor in any other city, or a majority of the member municipalities of a regional school district, which used qualifying revenue amounts in a fiscal year that will not be available for use in the next fiscal year, may appeal to the department of revenue not later than October 1, 2005 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) If the regional school budget has already been adopted by 2/3 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.

(g) 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 under this section shall be the minimum required local contribution described in chapter 70 of the General Laws. The department of revenue and the department of education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) 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.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2006 under chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(j) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

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SECTION 34. 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 2006.

SECTION 35. There shall be a pilot program operated by the Barnstable county sheriff to determine the effectiveness of proposed improvements to the regional uniform protocol for sex offender management. Any individual who has been adjudicated as a sex offender, is being released from a department of correction facility or a house of correction, and intends to reside in Barnstable county must register with the sex offender registry board 120 days before his release and declare the municipality in which he plans to reside. The department of correction facility or house of correction releasing the sex offender shall require that he be transferred to the house of correction in Barnstable county 30 days before his release. One critical objective of the pilot program shall be to insure, through the expanded use of regional hearing officers, that all sex offenders being released into Barnstable county municipalities are registered and classified before they are released from custody. The sex offender registry board, in consultation with the Barnstable county sheriff, shall expand the use of regional hearing officers in Barnstable county to insure the registration and classification of sex offenders before their release from custody. In registering, sex offenders must disclose their primary and any secondary post-release addresses.

This pilot program shall operate until June 30, 2006.

SECTION 36. There shall be a special commission on the future of the metropolitan beaches under the jurisdiction of the department of conservation and recreation. The commission shall review the effectiveness of the department's "Back to the Beaches" program and shall undertake a comprehensive study examining the existing maintenance, operational and infrastructure needs for those beaches, including, but not limited to, any security and capital-intensive repairs necessary to ensure future recreational use of those beaches. The commission shall also examine best management practices and funding alternatives for each beach, including, but not limited to, public-private partnerships, non-profit entities or other financial means that shall ensure access, quality recreational activities, programming, and improved water quality and beautification efforts at any of those beaches. Said commission shall also analyze and make recommendations on alternatives and methods to improve access from metropolitan beaches to the Boston harbor islands.

For the purposes of this section, the beaches shall include, but not be limited to: Malibu beach, Constitution beach, Carson beach, City Point beach, M. Street beach, Pleasure Bay, Savin Hill beach, and Tenean beach in the city of Boston; Nantasket beach in Hull; Nahant beach in the town of Nahant; Winthrop beach in the town of Winthrop; Wollaston beach, Pleasure Bay, and Squantum Point park in the city of Quincy; Revere beach and Short beach in the city of Revere; and Red Rock park and Lynn beach in the city of Lynn.

The commission shall consist of 3 members of the house of representatives appointed by the speaker of the house, 1 of whom shall be the house minority leader or his designee and 1 of whom shall be appointed co-chair of the committee; 3 members of the senate appointed

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by the senate president, 1 of whom shall be the senate minority leader or his designee and 1 of whom shall be appointed co-chair of the committee; 1 member appointed by the secretary of the executive office of environmental affairs or the secretary's designee; 1 member appointed by the commissioner of the department of conservation and recreation or the commissioner's designee; 2 members appointed by the mayor of the city of Boston, of whom each shall be a resident of the East Boston section of the city of Boston, a resident of the Dorchester section of the city of Boston or a resident of the South Boston section of the city of Boston; 6 members who are appointed by the chief executives or board of selectmen from the cities and towns of Hull, Nahant, Quincy, Revere, Lynn, and Winthrop; 1 member appointed by the Boston Foundation; 1 member appointed by the Greater Boston Chamber of Commerce; and 1 member appointed by the Boston University School of Public Management.

In carrying out the study, the commission shall hold hearings within close proximity to Boston harbor beaches to solicit testimony from interested stakeholders, including but not limited to: the executive office of environmental affairs, the department of conservation and recreation, the Massachusetts Water Resources Authority, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, the Boston Harbor Association, the Boston Harbor Islands Alliance, Save The Harbor/Save The Bay, local municipalities, non-profit organizations, friends' groups, and business and community leaders.

The chairs of the commission may expend funds from item 9700-0020 for the following purposes: to hire a coordinator for the work of the commission, to hire consultants to examine existing resources and to assist with public hearings and planning efforts, to research best practices in the commonwealth and other states, and other such services as the chairs find necessary to conduct this study.

The commission shall submit a report containing its recommendations by filing said report with the clerks of the senate and house of representatives, and the senate and house committees on ways and means not later than April 30, 2006.

SECTION 37. There shall be a special commission to study the production of cable television coverage of legislative sessions, committee hearings, and other legislative and administration proceedings. The commission shall consist of 3 members to be appointed by the governor, 1 of whom shall have expertise in the cable television industry, and 1 of whom shall be an attorney; 2 members to be appointed by the senate president; 1 member to be appointed by the senate minority leader; 2 members to be appointed by the speaker of the house of representatives; and 1 member to be appointed by the minority leader of the house of representatives. The commission shall submit a report and recommendations to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight by November 1, 2005, which report shall include, but not be limited to, the following: (1) the possibility of arranging for television coverage of state legislative proceedings similar to federal coverage available on C-Span, (2) the cost, if any, to the commonwealth of such an arrangement, (3) potential revenue options to pay for the cost of providing coverage, (4) estimated viewer demand, including analysis of demand by region,

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for such coverage, and (5) recommendations for appropriate measures to arrange for such coverage.

SECTION 38. This act shall take effect as of July 1, 2005.

This bill was returned on June 30, 2005, 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: 4403-2001	4510-0720	7003-0604	7003-0605	7100-0350
7100-0700	7114-0106	7511-0101	8000-0225	

SECTION 23.

SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
1599-0042	2,500,000	10,000,000
3000-1000	455,334	9,114,743
3000-5000	1,353,857	6,146,143
4530-9000	907,357	1,092,643
7004-9033	500,000	2,000,000
7004-9316	2,000,000	3,000,000
7007-0500	250,000	250,000
7061-0011	4,370,000	2,500,000
7061-0029	606,509	2,829,470

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
1107-2400	125,000	605,280	" ; provided, that \$125,000 shall be used to develop training materials for employees working in the state house on the Americans With Disabilities Act, including how to assist people with disabilities within the state house"
1108-5200	15,000,000	934,010,107	" ; provided further, that the preceding provisions pursuant to employee contributions shall expire December 31, 2005 at which time the commonwealth's share of the premiums for active state employees and their dependents shall be 85 per cent"

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Item	Reduce by	Reduce to	<i>Wording Stricken</i> and
			"; provided further, that the preceding provision pursuant to employee contributions shall expire December 31, 2005 at which time the commonwealth's share of the premiums for active state employees hired after June 30, 2003 and their dependents shall be 80 per cent"
1599-7780	118,000	1,240,000	"; provided further, that no less than \$118,000 shall be expended for the Norfolk district attorney's office"
2000-0100	315,000	5,994,486	"; 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 further, that the secretary shall file a plan with the house and senate committees on ways and means and to the joint committee on the environment, natural resources and agriculture 90 days prior to the initiation of any proposal or plan that would consolidate any function 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 further, that the plan shall include, but not be limited to the following: (1) an identification of the employees that would be affected by consolidation and the item of appropriation that they are paid from, (2) the savings or efficiencies to be realized, (3) the improvements to the services expected, and (4) the source and amount of funding necessary to accomplish the consolidation; and provided further, that the secretary shall provide a 90 day

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			notice prior to the implementation of any memorandum of understanding, interagency service agreements, or other contacts, or agreements that would enable such consolidation of services to take place; provided further, that \$75,000 shall be expended for a study of traffic patterns during rush hour commutes on department of conservation and recreation controlled roadways serving Lynn, Swampscott and Nahant; provided further, that not less than \$40,000 shall be expended for the completion of a comprehensive cost study of a master plan for the maintenance and improvement of all property under the care, custody and control of the division in the West Roxbury section of the city of Boston including such measures but not limited to the planting, pruning, reforestation, enhancement of pedestrian access walks and the removal of leaves, snow and debris in said property"
			and
			"; provided further, that not less than \$50,000 shall be expended for new flood insurance rate maps for Salisbury beach; and provided further, that \$150,000 shall be expended for a coastal water quality and natural resource monitoring programs in Buzzards Bay administered by the Coalition for Buzzards Bay"
2800-0100	100,000	5,377,272	"; provided further, that not less than \$100,000 shall be expended within thirty days of receipt of said funds, for the maintenance of the facility and animal upkeep of the mounted unit in the Blue Hills Reservation, which are not subject to said reimbursement to the department"
			and

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			<p>"; 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; provided further, that the department shall, in collaboration with the department of environmental protection and the department of fish and game, establish and maintain a comprehensive inventory of all dams in Massachusetts, and develop a coordinated permitting and regulatory approach to dam removal for stream restoration and public safety"</p> <p>and</p> <p>"; provided further, that any employee paid from this item as of August 1, 2004, that was included in the report required from said item in chapter 149 of the acts of 2004, and any employees assigned to that item after August 1, 2004, shall not be paid from any other item of appropriation; provided further, that the department of conservation and recreation shall provide the house and senate committees on ways and means with a 30 day notice before any inter subsidiary transfers or interagency service agreements and the reason for said transfer; provided further, that no funds shall be expended for deputy commissioner positions; provided further, that no funds shall be expended for deputy associate commissioners"</p>
2820-0100	40,000	23,568,929	<p>"; provided further, that \$40,000 shall be provided for a traffic study administered by the commissioner of the department of conservation and recreation shall be commissioned to improve public safety along Nonantum road and adjacent parklands, including developing alternatives for narrowing the parkway cross-section, alternatives for safety improvements at the intersections of Charlesbank road and Maple street, alternatives</p>

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			<p>for landscape, pathway, lighting, and drainage improvements, and a schedule and cost estimate for the design and construction of the recommendation; provided further, that the commissioner shall report progress to the Stewardship Council at each meeting until the study reaches completion; provided further, that the commissioner shall ensure public input through two public hearings held in Newton and Watertown during the study - one prior to the initial recommendation, one after release of the initial recommendation but prior to the final recommendation; provided further, that the commissioner shall ensure public awareness by publishing quarterly progress reports on the department of conservation and recreation website's press release section; and provided further, that upon completion of the study, the commissioner shall deliver the recommendation of the study along with a report addressing public opinion not reflected in the recommendation to the Stewardship Council provided further, that the commissioner shall develop a capital project plan to enact the recommendation of the traffic study, including design and implementation"</p>
			and
			"; provided further, that the commissioner shall submit this plan for the next fiscal year budget following the completion of the traffic study"
3000-7060	1,000,000	1,000,000	" of education"
4000-0112	1,610,000	2,000,000	"; provided further, that not less than \$80,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less 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

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			<p>town of Saugus and the Saugus YMCA and YWCA; provided further, that not less than \$50,000 be expended for programs and improvements at the Northeast Family YMCA; provided further, that not less than \$50,000 be expended for programs and improvements at the Haverhill YWCA; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA including, but not limited to, capital projects in the town of Norwood, the West Roxbury section of Boston, East Boston, Woburn, Bedford and in other cities and towns within the greater Boston area; provided further, that not less than \$100,000 shall be expended for programs and improvements to the YWCA of Newburyport; provided further, that not less than \$50,000 shall be expended for the Project Adventure Youth Leadership Program administered by Family Services Incorporated of Lawrence; provided further, that not less than \$50,000 shall be expended for programs at the Girls Incorporated of Holyoke drop-in center; provided further, that not less than \$25,000 shall be expended for programs at the Fishing Academy, Incorporated; provided further, that not less than \$225,000 shall be expended for Camp Coca Cola New England to provide youth development services with an emphasis on leadership training and community service; provided further, that not less than \$125,000 shall be expended for the Greater Worcester YMCA Youth Programs; provided further, that not less than \$50,000 shall be expended for the Chelsea YMCA for building rehabilitation purposes; provided further, that not less than \$40,000 shall be expended for the Saugus YMCA; provided further, that not less than \$50,000 shall be expended to the Franklin</p>

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			Community Action Corporation for youth service; provided further, that not less than \$150,000 shall be expended for nonprofit Youth Services in Andover; provided further, that not less than \$25,000 shall be expended for the Southwick Recreation Center, Inc.; and provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amount distributed in fiscal year 2006 by March 1, 2006"
4000-0600	45,000,000	1,845,925,627	"; provided further, that in the event the division of health care finance and policy conducts or utilizes an audit of nursing facilities' calendar year 2002 base year costs for the purpose of reducing rates below levels that would be in effect in the absence of the audit, the division shall disallow no more than \$22,000,000 in the aggregate in fiscal year 2006 rates" and "; provided further, that effective July 1, 2005, nursing facility Medicaid rates shall be adjusted by no less than \$43,500,000 in the aggregate for the purpose of funding inflationary cost" and "; provided further, that notwithstanding any general or special law to the contrary, medicaid rates paid by the commonwealth through the office of medicaid or its third party agents to cover the cost of care provided by the only mentally involved/medically involved (MIMI) nursing facility in the commonwealth shall be sufficient to cover the cost of care provided by such a facility, and in no event shall be less than 15 per cent more than the fiscal year 2005 medicaid reimbursement per patient day received by such a facility"

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4000-1405	1,220,000	130,934,120	"; provided further, that any such individual shall not be subject to sponsor income deeming or related restrictions"
4510-0600	264,800	3,188,603	"; provided further, that \$100,000 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" and "; 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 program" and "; provided further, that \$150,000 shall be expended for the ALS registry created by section 26 of chapter 140 of the acts of 2003"
4512-0200	973,000	46,626,186	"; provided further, that not less than \$50,000 shall be expended for the Louis D. Brown Peace Institute for homicide victims' family support services and anti-violence advocacy programs" and "; provided further, that not less than \$833,000 shall be expended for the Volunteers of America Rebound Youth Residential Recovery Program at Long Island Hospital in the city of Boston for substance abuse and rehabilitation services to youths with addictions; provided further, that not less than \$90,000 shall be expended for a batterer prevention program in the city of New Bedford"
4513-1020	1,000,000	29,840,024	"; provided further, that not less than \$1,000,000 shall be expended for the provision of cost reimbursement funding to certified Early Intervention

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Item	Reduce by	Reduce to	Wording Stricken Programs"
4570-1500	107,500	3,284,833	"; and provided further that not less than \$107,500 shall be expended for Silent Spring Institute to complete the Household Exposure Study"
4590-0914	1,066,667	533,333	"; and provided further, that the funds appropriated in this item shall be made available for expenditure through June 30, 2008"
7003-0702	330,000	7,629,000	"; 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" and "; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO"
7004-3036	221,925	1,000,000	"; 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"
7004-9024	2,000,000	24,283,345	"; 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" and ", but not more than 40 per cent" and

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			" but not more than 40 per cent"
			"; provided further, that the department shall submit an annual report not later than February 1, 2006 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"
7007-0900	4,000,000	16,418,282	"; provided further, that said office shall grant not less than \$4,000,000 to the Massachusetts International Marketing Partnership Incorporated, the business entity awarded the contract pursuant to section 60 of chapter 141 of the acts of 2003 for the express purpose of implementing the strategic marketing and promotional program to recover the commonwealth's lost international market share"
7010-0005	75,000	9,522,805	"; provided, that the department, in collaboration with the governor's commission on gay and lesbian youth, shall allocate not less than \$75,000 for programming to ensure public schools' compliance with the board of education's recommendations for the support and safety of gay and lesbian students and the implementation of related suicide- prevention and violence-prevention efforts"
8000-0000	50,000	2,250,856	"; provided, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General, 1 of whom shall be a representative of organized labor and 1 of whom shall be a representative of management and chapters 268A and 268B of the General Laws shall not apply to members of the commission who are not other-

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			wise subject to said chapters 268A and 268B; provided, further, that the commission shall not be subject to sections 11A and 11A½ of chapter 30A of the General Laws; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response; provided further, that the commission shall develop strategies for encouraging state public health and

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			mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for the operation of the commission"
8100-0000	137,400	211,049,380	"; provided further, that \$75,000 shall be expended for the 5-A program in the city of Springfield" and "; and provided further, that not less than \$62,400 shall be expended for the state police-South Yarmouth to prevent accidents and expedite traffic flow in the town of Yarmouth"
8324-0000	100,000	10,223,098	"; provided further, that \$100,000 shall be expended to Norfolk County for the purpose of the establishment of the Norfolk County dispatch center at the Massachusetts Hospital School in Canton"
8800-0300	75,000	90,356	"; provided further" that not less than \$75,000 shall be expended for the upgrading and installation of updated monitoring equipment for C-10 of Newburyport this expense shall be apportioned according to the formula stated above; and provided further, that the department shall report to the house and senate committees on ways and means not later than March 1, 2006 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"

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8900-0001	1,710,500	429,255,825	" ; provided, that the department shall expend not less than \$1,010,500 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"
			and
			" ; provided further, that not less than \$200,000 shall be provided for the Aid to Incarcerated Mothers organization"
			and
			" ; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction"

SECTION 2 *Items reduced in amount and by striking the wording and inserting in place thereof the following:*

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
1599-6901	10,000,000	10,000,000	" ; provided further, that \$14,000,000 shall be expended in fiscal year 2006 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$6,000,000 shall be expended in fiscal year 2006 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and less than \$40,000

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in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs"

Wording Inserted

"; provided further, that \$7,000,000 shall be expended in fiscal year 2006 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$3,000,000 shall be expended in fiscal year 2006 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs"

4000-0500 2,000,000 2,100,005,676

Wording Stricken

"; provided further, that not less than \$12,000,000 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"

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Wording Inserted

"; provided further, that not less than \$10,000,000 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"

4403-2120 2,973,293 70,626,707

Wording Stricken

"; provided, that eligibility shall be limited to families with income at or below 130 per cent of the federal poverty level; provided, however, that any family whose income exceeds 130 per cent of the federal poverty level while the family is receiving assistance funded by this item shall not become ineligible for assistance due to exceeding the income limit for a period of 6 months from the date that the 130 per cent level was exceeded; provided further, that the department shall establish reasonable requirements for such families to escrow some or all of the portion of their income which exceeds 130 per cent of the federal poverty level; provided further, that any such escrowed funds shall be exempt from otherwise applicable asset limits; provided further that the family shall be allowed to withdraw the amount placed in escrow upon transition to permanent housing or losing eligibility for shelter services"

and

"; provided further, that eligibility for shelter by an otherwise eligible family shall not be impaired by prior receipt of any nonshelter benefit; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso"

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Wording Stricken

and

"; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso; provided further, that notwithstanding any other general or special law to the contrary, the department shall immediately provide shelter for up to 30 days to families who appear to be eligible for such shelter based on statements provided by the family and any other information in the possession of the department but who need additional time to obtain any third-party verifications reasonably required by the department"

and

"; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso"

and

"; provided further, that notwithstanding any general or special law to the contrary, 60 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 all of this item shall be subject to appropriation and, in the event of a deficiency, nothing in this item shall give rise to or shall be construed as giving rise to any enforceable right

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or entitlement to services in excess of the amounts appropriated by this item; 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; provided further, that the department shall report quarterly to the house and senate committees on ways and means an unduplicated count of families who apply for emergency assistance funded family shelter during the fiscal year; provided further that the report shall include the total number of applications received, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the number of families who are approved for shelter benefits within 12 months of an initial denial, 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, the reasons that families exit shelters, including reasons for voluntary departure and termination, exiting families' housing plans, including type of housing arrangements, subsidy status, monthly rent, and gross monthly income, 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

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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 include a status report on the outcomes of department-funded homelessness prevention initiatives, providing information on the nature and total cost of each such initiative, the number of families served by each such initiative, the average cost per family of each such initiative, the affordability and stability of housing or alternative shelter placements for prevention program recipients, including type of housing arrangement, subsidy status, monthly rent, and gross monthly income, and any other information that the department determines to be necessary in evaluating the operation of state-funded homeless prevention programs"

Wording Inserted

"; provided, that eligibility shall be limited to families with income at or below 100 per cent of the federal poverty level"

4590-0250 100,000 14,618,309 *Wording Stricken*

"; provided further, that not less than \$350,000 shall be expended for the governor's commission on gay and lesbian youth"

Wording Inserted

"; provided further, that not less than \$250,000 shall be expended for the governor's commission on gay and lesbian youth"

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SECTION 2 *Items disapproved by striking the wording:*

Item	<i>Wording Stricken</i>
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 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted"
1107-2501	"; 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"
1410-0400	"; provided further, that notwithstanding any general or special law to the contrary, the secretary of veteran services may continue a training program for veterans' agents and directors of veterans' services in cities and towns; provided further, that the purpose of the training program shall be to maximize federal assistance available for veterans and to assure that the 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 the training program shall include benefits available under said chapter 115 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 secretary shall promulgate

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regulations for the training program; provided further, that upon successful participation by the veterans' agents or directors of veterans' services in the training program, the costs of the 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 the costs were paid"

1599-4408

"; provided further, that the secretary of administration and finance, the commissioner of the department of transitional assistance and the commissioner of the department of early education and care, shall, not later than January 15, 2006, jointly issue a preliminary report, and not later than April 1, 2006, issue a final report on planned expenditures from this item, on any federal actions impacting the state transitional assistance program, and on any legislative proposals the department may recommend in response to the actions; provided further, that, if the reports include legislative or administrative recommendations in response to federal actions, the reports shall include a description of all new requirements proposed to be imposed on recipients of transitional aid to families with dependent children as a result of federal actions, an analysis of the individuals proposed to be subject to work requirements as a result of the actions, including an analysis of which individuals may reasonably be expected to obtain employment with proper assistance and which require an alternative plan or strategy for achieving self-sufficiency, and a detailed plan for addressing the needs of any recipient who would be subject to work requirements under such proposal; provided further, that the reports shall be provided to the chairpersons of the house and senate ways and means committees, the house and senate chairpersons of the joint committee on children and families and the house and senate chairpersons of the joint committee on education; and provided further, that nothing in the foregoing authorizes the department of transitional assistance to impose rules or requirements that are not authorized by section 110 of chapter 5 of the acts of 1995"

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 the program including, but not limited to, the costs of personnel, consultants, administration

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of the wellness program, establishment of standards and any other related costs of the program; and provided further, that the division shall report to the house and senate committees on ways and means by February 1, 2006 on the projected costs of the program for fiscal year 2006"

1775-0100

"; provided further, that notwithstanding any general or special law to the contrary, the division of purchased services of the operational services division 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 2006 by increasing the final fiscal year 2005 price by the rate of inflation as determined by the division; provided further, that the division shall also adjust prices for Extraordinary Relief, as defined in 808 CMR 1.06(4); provided further, that the department shall accept applications for Program Reconstruction in fiscal year 2006; provided further, that programs for which prices in fiscal year 2005 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2006 the full price calculated for fiscal year 2005 adjusted by the rate of inflation as determined by the division; provided further, that upon the request of a program, the operational services division shall authorize a minimum price for the program to charge out-of-state purchasers; and provided further, that the division shall determine said minimum price for out-of-state purchasers by identifying the most recent price calculated for the program and applying the estimated rates of inflation which are established by December 1 of each year pursuant to section 274 of chapter 110 of the acts of 1993 in a compounded manner for each fiscal year following the most recent calculated price"

2030-1000

"Hyannis and"

2310-0200

"; provided further, that the executive office shall conduct a study on the severity of invasive weeds in the commonwealth's bodies of natural water; provided further, that said study shall include, but not be limited to the costs associated with full clean-up and eradication, a priority list of projects, an analysis of future environmental concerns stemming from invasive weeds, and plans

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for communities to prevent future growth of invasive weeds; provided further, that the executive office shall also conduct a study of the advantages and disadvantages of future maintenance of invasive weeds in the state; and provided further, that the executive office shall report to the general court the results and recommendations, if any, together with drafts of legislation necessary to carry out recommendations into effect by filing the same with the clerk of the house of representatives, the house and senate committees on ways and means, and the joint committee on environment, natural resources and agriculture on or before the last Wednesday of February 2006"

3000-6000

"; and provided further, that no funds shall be expended, obligated or transferred from this item prior to the submission of written certification by the commissioner to the house and senate committees on ways and means that all planned expenditures and allocations from this item shall have no fiscal impact beyond fiscal year 2006"

4000-0300

"; provided further, that a hospital with a unit designated as a pediatric specialty unit, or which maintains a level 1 burn and trauma center for pediatrics as defined in this item shall be exempt from the inpatient and outpatient efficiency standards being applied to their rate methodology; provided further, that notwithstanding section 1 of chapter 118G of the General Laws or any general or special law to the contrary, for fiscal year 2006 the definition of a "pediatric specialty unit" shall mean a level 1 burn and trauma center for pediatrics or a pediatric unit of an acute care hospital in which the ratio of licensed pediatric beds to total licensed hospital beds as of July 1, 1994, exceeded 0.20; provided further, that in calculating that ratio, licensed pediatric beds shall include the total of all pediatric service beds, and the total of all licensed hospital beds shall include the total of all licensed acute care hospital beds, consistent with Medicare's acute care hospital reimbursement methodology as put forth in the Provider Reimbursement Manual Part 1, Section 2405.3G"

and

" and mothers until their youngest child reaches the age of 3"

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and

"and mothers until their youngest child reaches the age of 3"

and

"; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003, except as provided in item 4000-1401; provided further, that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that in calculating rates of payment for children enrolled in MassHealth receiving inpatient services at acute care pediatric hospitals and pediatric specialty units as defined in section 1 of chapter 118G of the General Laws, the executive office shall make a supplemental payment, if necessary, sufficient to assure that payment for inpatient cases with a case mix acuity greater than 5.0 shall be at least equal to 85% of the expenses incurred in providing services to those children; provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2005; provided further, that said executive office in fiscal year 2006 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members"

and

"; provided further, that in determining the inpatient and outpatient nonacute hospital rates of payment, the executive office and its contractors shall utilize a payment methodology so that rates of payment are not less than those in effect during fiscal year 2005; and provided further, that notwithstanding any general or special law to the contrary, the executive office shall adopt regulations which restrict eligibility and covered services only after public notice and hearing"

Item	<i>Wording Stricken</i>
4000-0990	"; provided further, that notwithstanding subsection (d) of section 10F of chapter 118E of the General Laws, or any general or special law to the contrary, premiums for this program shall be collected according to the following eligibility categories: (1) enrollees in households earning less than 200 per cent of the federal poverty level shall not be responsible for contributing to program premium costs; (2) enrollees in households earning between 200 per cent and 300 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 executive office; provided, that additional contributions shall not be required for any enrollee after the third enrollee in such a household; (3) enrollees in households earning between 301 per cent and 400 per cent of the federal poverty level, inclusive, shall contribute not less than 85 per cent and not more than 90 per cent of the monthly premium cost according to a sliding scale established by the executive office; provided, that additional contributions shall not be required for any enrollee after the first enrollee in such a household; and (4) enrollees in households earning more than 400 per cent of the federal poverty level shall pay not more than the full premium cost of the program; provided further, that the secretary of shall certify quarterly in writing to the house and senate committees on ways and means that premiums established pursuant to the fourth paragraph of section 10F of chapter 118E have been paid by all enrollees for whom premiums are applicable"
4100-0060	"; provided further, that notwithstanding any general or special law to the contrary, the division of health care finance and policy, in conjunction with the executive office of elder affairs and the executive office of health and human services shall, by August 1, 2005, for all non-acute chronic and rehabilitation hospitals, adopt and implement, for the rate year effective October 1, 2005, a Medicaid rate reimbursement methodology, that utilizes a hospital base year of either 2002 or 2003; provided further, that in calculating the Medicaid rate of reimbursement for such hospitals, such reimbursement shall exclude any costs associated with any beds licensed by the department of mental health"

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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"
4190-0102	"; provided further, that no funds appropriated in this item shall be expended until the superintendent has submitted a report to the secretary and the house and senate committees on ways and means detailing projected expenditures for fiscal years 2006 and 2007 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, 2005"
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 program expenditures, savings and revenues, error rate measurements, and 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" and "; and provided further, that the department shall report to the house and senate committees on ways and means not later than December 15, 2005 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"
4401-1000	" ; and provided further, that all of this item is subject to appropriation and, in the event of a deficiency, nothing in this item 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"
4403-2000	" ; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and

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Item	<i>Wording Stricken</i>
4408-1000	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"
4800-0038	"; and provided further, that notwithstanding any general or special law this item to the contrary, 60 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"
4800-0041	"; provided further, that the department shall report to the house and senate committees on ways and means and the joint committee on children and families by March 15, 2006 on the utilization of the transitional funds and the progress of the implementation of the department's reprocured system of care"
5042-5000	"; and 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 savings 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 submit a report to the house and senate committees on ways and means not later than January 16, 2006 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 2004 and 2005 in the clinical acuity of children and adolescents"

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Item	<i>Wording Stricken</i>
5046-0000	"; provided further, that the department shall report to the house and senate committees on ways and means no later than February 16, 2005 on the use of any funds expended for this purpose 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 2006 not later than February 1, 2006"
5047-0002	"; 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, 2006 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"
5095-0015	"and the General Court shall have approved the closure of Worcester State Hospital and Westboro State Hospital"
5920-1000	"; 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"
5920-5000	"; provided further, that the department shall report to the house and senate committees on ways and means not later than January 2, 2006, 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;"
5930-1000	"; provided further, that said plan shall be subject to the approval of the house and senate committees on ways and means"
6000-0100	"; 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

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Item

Wording Stricken

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, 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, 2006 and the last day of each subsequent fiscal year"

6010-0001

"; 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 for approval requests to repair vehicles costing in excess of the limit set forth in said section 22 of said chapter 7"

6010-0003

"; provided further, that the report shall be filed with the house and senate committees on ways and means 30 days prior to any encumbrance of the funds"

7002-0101

"; 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 \$50,000 of the fees collected by the division for this identification card program shall be deposited into the special trust account created to fund and maintain the identification card program pursuant to chapter 11W of chapter 23

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Item	<i>Wording Stricken</i>
	of the General Laws and the remainder of all fees collected shall be deposited into the General Fund"
7006-0070	"; provided further, that the department shall complete and submit a report to the joint committee on telecommunications, utilities and energy of the general court and the clerks of the senate and house of representatives no later than October 1, 2005 on the potential savings or financial gain to the NSTAR utility company before and as a result of any strike or work stoppage, and this report shall also examine the service quality index and standards, including but not limited to, safety response time, power outages, safety of the works and the public, before and as a result of any work stoppage or strike"
8000-0110	"; c) limit the distribution of criminal offender record information to conviction data and data regarding any pending criminal charge, except as otherwise authorized by law"

SECTION 2B *Items disapproved by striking the wording:*

Item	<i>Wording Stricken</i>
1102-3224	"; provided, that the division of capital asset management and maintenance shall submit to the house and senate committees on ways and means on or before the first of each month beginning July 1, 2005 a monthly report on the agencies that currently, or will during fiscal year 2006 occupy space in the Saltonstall building, their rental costs, utility costs, parking space allocation, floor space, lease dates, all services included in the lease and all services that the agencies are obligated to fund beyond the lease payments; provided further, that the report shall include both estimated payments and prior expenditures"

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 10 and 30.

The remainder of the bill was approved by the Governor on June 30, 2005 at ten o'clock and zero minutes, A.M.

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The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on June 30, 2005 the House of Representatives and on July 14, 2005 the Senate passed the following Items:

SECTION 2. Items: 1000-0001, 1107-2400, 1599-0042, 1599-4408, 1599-7780, 1775-0100, 2000-0100, 2310-0200, 2800-0100, 2820-0100, 3000-1000, 3000-6000, 4000-0112, 4000-0300, 4000-0500, 4000-0600, 4190-0102, 4403-2000, 4403-2120, 4408-1000, 4510-0600, 4512-0200, 4530-9000, 4570-1500, 5095-0015, 5930-1000, 6000-0100, 6010-0003, 7003-0605, 7004-3036, 7007-0500, 7010-0005, 7061-0029, 7100-0350, 7100-0700, 7511-0101, 8100-0000, 8324-0000, 8800-0300, 8900-0001 and **SECTION 23.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 14, 2005 the House of Representatives and on July 20, 2005 the Senate passed the following Item:

SECTION 2. Item: 7003-0702

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 20, 2005 the House of Representatives and in concurrence on July 20, 2005 the Senate passed the following Items:

SECTION 2. Items: 1108-5200, 1410-0400, 1599-6901, 2030-1000, 3000-5000, 3000-7060, 4000-0990, 4000-1405, 4100-0060, 4403-2001, 4510-0720, 4513-1020, 4590-0250, 4590-0914, 4800-0038, 5920-5000, 7003-0604, 7004-9024, 7004-9033, 7004-7316, 7007-0900, 7061-0011, 7114-0106 and 8000-0110.

Chapter 46. AN ACT RELATIVE TO THE HEALTH INSURANCE OF ACTIVE AND RETIRED EMPLOYEES OF THE CITY OF MELROSE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 19 of chapter 32B of the General Laws or any other general or special law to the contrary, an employee who has retired or will retire from the service of the city of Melrose after the effective date of this act and is enrolled in an HMO type health plan offered by the city, the employee's spouse and dependents shall be entitled to an 85 per cent contribution from the city for the insurance premiums for as long as the retiree remains continuously enrolled in the plan notwithstanding any change in the health plan premiums paid by the city for active employees.

SECTION 2. If the commonwealth mandates an increase in the minimum percentage contribution that active employees shall pay toward their health insurance, the increase shall be paid by active employees, and the percentage paid by retirees shall not be affected.

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

Approved June 30, 2005.

Chapter 47. AN ACT AUTHORIZING THE TOWN OF MILTON TO APPROPRIATE MONEY FOR RETROACTIVE WAGE ADJUSTMENTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 108 of chapter 41 of the General Laws or any other general or special law to the contrary, the town meeting of the town of Milton may appropriate from funds certified by the department of revenue as free cash the sum of \$11,646 for the purpose of funding retroactive wage increases for the town clerk and town treasurer for fiscal year 2004 and fiscal year 2005, to be added to the salary account of the town clerk in the amount of \$5,823 and to the salary account of the town treasurer in the amount of \$5,823.

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

The foregoing was laid before the Governor on the Twentieth day of June, 2005 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 48. AN ACT AUTHORIZING THE TOWN OF GREENFIELD 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:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Greenfield may issue to A. Ruggeri & Sons, Inc. 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. The licensing authority shall not approve the transfer of the license to any other person, organization, corporation or location.

SECTION 2. Notwithstanding any special or general law to the contrary, upon issuance of the license authorized pursuant to section 1, the license for the sale of wines and malt beverages not to be drunk on the premises issued pursuant to section 15 of said chapter 138 and now held by A. Ruggeri & Sons, Inc. shall revert to the town of Greenfield.

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

Approved July 7, 2005.

Chapter 49. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DAWN HEINLE-KIMBALL, AN EMPLOYEE OF THE TRIAL COURT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish 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 Dawn Heinle-Kimball, an employee of the Ayer trial court. Any employee of the trial court may voluntarily contribute one or more sick, personal or vacation days to the sick leave bank for use by Dawn Heinle-Kimball. Whenever Dawn Heinle-Kimball 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 July 11, 2005.

Chapter 50. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF WESTPORT AS THE WESTPORT POLICE OFFICERS MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge on state highway route 88 over United States highway route 6 in the town of Westport shall be designated and known as the Westport Police Officers Memorial Bridge. The department of highways shall erect and maintain suitable markers bearing this designation in compliance with the standards of the department.

Approved July 20, 2005.

Chapter 51. AN ACT AUTHORIZING THE TOWN OF ROWLEY TO LEASE CERTAIN CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Rowley may transfer the care, custody and control of a 26,175 square foot portion of a certain parcel of land, described in section 2, from the Rowley conservation commission to the board of selectmen of said town for the purpose of leasing to an FCC licensed telecommunications carrier for the installation and maintenance of a telecommunications tower and accessory equipment for personal wireless services.

SECTION 2. The land to be transferred to the board of selectmen of the town of Rowley under section 1 is described as follows:-

A 26,175 square foot portion of a certain parcel of land off Smith Lane, Rowley, Massachusetts, said parcel identified on Rowley Assessors' Map 13, as Lots 2 & 5 and described in a deed to the conservation commission and recorded in the Essex registry of deeds at Book 6612, Page 521 and dated June 25, 1979; said portion of the parcel is identified on a plan entitled "Smith Lane Map 13 Lot 2 Smith Lane Rowley, Ma. 01969 Essex County", dated April 6, 2004, prepared by Ronald F. Bukoski.

SECTION 3. The town of Rowley shall dedicate a parcel of town-owned land, equal to or larger than the parcel described in section 2, for conservation or recreation purposes. If such dedication of such conservation or recreation land has not occurred before, or up to 90 days after the effective date of this act, the town of Rowley shall appropriate the proceeds of all annual fees collected from such carrier for conservation and recreation purposes.

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

Approved July 22, 2005.

Chapter 52. AN ACT PROVIDING FOR A CERTAIN EXEMPTION FROM THE SALES TAX.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for a sales tax free 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:

SECTION 1. Notwithstanding any general or special law to the contrary, for the days of August 13, 2005 and August 14, 2005, an excise shall not 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, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals, or a single item whose price is in excess of \$2,500.

SECTION 2. Notwithstanding any general or special law to the contrary, for the days of August 13, 2005 and August 14, 2005, a vendor in the commonwealth shall not add to the sales price or collect from any non-business purchaser an 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 13, 2005 and August 14, 2005, but any excise erroneously or improperly collected during the days of August 13, 2005 and August 14, 2005 shall be remitted to the department of revenue. The provisions of this section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals, or any single item whose price is in excess of \$2,500.

SECTION 3. 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 days of August 13, 2005 and August 14, 2005.

SECTION 4. On or before December 31, 2005, 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 5. The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary to carry out this act.

Approved July 22, 2005.

Chapter 53. AN ACT RELATIVE TO FINANCING THE PRODUCTION OF AFFORDABLE HOUSING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith funding for affordable housing, therefore it is hereby declared to be an emergency law, necessary for the immediate pre of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide 5 year funding for the capitalization of the Affordable Housing Trust Fund, established in chapter 121D of the General Laws, to finance the creation and preservation of affordable housing and for a capital outlay program to support home ownership and rental housing opportunities for low and moderate income citizens and to stem urban blight thru implementation of housing stabilization programs. The sums set forth in section 2, for the purposes of this act and said chapter 121D and subject to the conditions specified in this act, may be expended from the General Capital Projects Fund unless specifically designated otherwise, subject to laws regulating the disbursement of public funds and approval thereof.

SECTION 2.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

- 7004-0021 For the capitalization of the Affordable Housing Trust Fund, established in chapter 121D of the General Laws \$100,000,000
- 7004-0022 For the purpose of state financial assistance in the form of grants or loans for the housing stabilization and investment program established pursuant to section 4 and awarded pursuant only to the criteria therein; provided, that this program shall not be subject to the commonwealth development coordinating council established in section 8B of chapter 6A of the General Laws; provided further, that not less than 25 per cent of the amount appropriated in this item shall be used to fund projects which preserve and produce housing for families and individuals with incomes of not more than 30 per cent of the area median income, as defined by the United States Department of Housing and Urban Development; and provided further, that if the department has not been able to meet the spending allowable under the bond cap for this program, at the end of each year after the effective date of this act, the department may award the remaining funds to projects that serve households earning more than 30 per cent of the area median income, as defined by said United States Department of Housing and Urban Development \$100,000,000

SECTION 3. To meet 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, \$200,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Affordable Housing Bond Act of 2005, 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 Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2030. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provision of this act, be general obligations of the commonwealth. An amount not to exceed 2 per cent of said authorizations may be expended by the department of housing and community development for administrative costs directly attributable to the purposes of this act, including costs of clerical and support personnel. The director of housing and community development shall file an annual spending plan with the fiscal affairs division and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to expenditures made pursuant to this act.

SECTION 4. Subsection (a) of section 2 of chapter 121D of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following sentence:- The fund shall not be subject to the commonwealth development coordinating council established in created pursuant to section 8B of chapter 6A.

SECTION 5. Subsection (d) of said section 2 of said chapter 121D, as so appearing, is hereby amended, by inserting after the word "fund", in line 21, the following words:- using only the criteria set forth under this chapter.

SECTION 6. Subsection (a) of section 3 of said chapter 121D, as so appearing, is hereby amended by striking out clause (8) and inserting in place thereof the following clause:-

(8) Repair, rehabilitation and modernization of existing public housing units. The fund shall expend for this purpose not less than \$5 million per year.

SECTION 7. The department of housing and community development may enter into contracts for state financial assistance in the form of grants or loans by the commonwealth acting by and through the department of housing and community development for projects undertaken for the housing stabilization and investment program. The department shall be the sole administrator of the housing stabilization and investment program and shall ensure that funds are distributed in a balanced fashion in urban, suburban, and rural areas with a particular emphasis on the local and regional need for affordable housing for the purpose of undertaking projects to develop and support affordable housing developments and homeownership affordability, through the acquisition, preservation and rehabilitation of affordable housing; provided, however, that such program may include assistance for projects to stabilize and promote reinvestment in cities and towns including,

but not limited to, acquisition, rehabilitation and preservation of foreclosed and distressed properties and any other techniques necessary to achieve such reinvestment; provided further, that not less than \$5,000,000 shall be expended for the production or preservation of housing for people age 60 and over. Assistance provided through such program may be made in a manner which qualifies the assistance as a matching contribution under Section 220 of the HOME Investment Partnership Act Title II of the Cranston-Gonzalez National Affordable Housing Act including, in the case of assistance provided in the form of a loan, a commitment to repay such loan to the commonwealth's HOME Investment Trust Fund established pursuant to Section 92.5000(o) of the regulations of the United States Department of Housing and Urban Development. Loans may be provided to any agency, department, board, commission, authority or instrumentality of the commonwealth or any political subdivision thereof, to housing authorities, nonprofit agencies certified by the United States Department of Housing and Urban Development as community housing development organizations, community development corporations and limited equity cooperative housing corporations established pursuant to chapter 157B of the General Laws. Such recipients may enter into subcontracts to carry out the purposes of such contract with other for-profit or not-for-profit organizations. Prior to providing assistance, the department shall find that: (1) the housing would not, by private enterprise alone and without government assistance, be available to lower income families and individuals; (2) the amount of assistance appears to be the minimum amount necessary to make the housing development feasible; (3) with respect to rental housing, the operations of the owner and its articles of organization and by-laws and any changes to either shall be subject to regulation by the department; and (4) the housing shall remain affordable for its useful life as determined by the department. Such housing shall be considered affordable if, during the first 40 years after assistance is first provided, substantially all of the assisted units shall be rented to or owned by families and individuals whose income at initial occupancy is equal to or less than 80 per cent of the median income as determined by the secretary of Housing and Urban Development for the federal housing programs and that thereafter such units shall be rented or sold, subject to such restrictions on appreciation as determined by the department to be reasonable and necessary to maintain long term affordability, to families or individuals at incomes at or below 100 per cent of the median income.

If a property was previously leased or sold to an owner by a city, town or local housing authority, prior to any sale or transfer or other disposition of any such housing assisted under this section, the owner shall offer the city, town or local housing authority or its assignee, who shall be a qualified developer selected pursuant to this section under the guidelines of the department of housing and community development, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the city, town or local housing authority written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The city, town or local housing authority shall hold such first refusal option for the first 60 days

after receipt of the owner's notice of intent to transfer the property. No transfer of the property shall occur during said 60 day-option period and failure to respond to the written notice of the owner's intent to sell, transfer or otherwise dispose of the property within 60 days after the receipt thereof shall constitute a waiver of such right of first refusal by such city, town or local housing authority. No sale, transfer or other disposition of such land shall be consummated until either the first refusal option period has expired or the owner shall have been notified in writing by the city, town or local housing authority 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 city, town or local housing authority 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 or district 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 pursuant to the terms of this section under guidelines issued by the department, such written notice shall state the name and address of such developer and the terms and conditions of such assignment. An affidavit before a notary public that the city, town or local housing authority or its designated representative has mailed such notice of intent on behalf of an owner shall conclusively establish the manner and time of the giving of such notice; and such affidavit, and such notice that the option will not be exercised shall be recorded with the registry of deeds or the registry district of the land court in the county or district 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; and each such affidavit before a notary public shall have attached to it a copy of the notice of intention to which it relates. Such 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. The city, town or local housing authority or its assignee may purchase or acquire the property only for the purposes of preserving or providing affordable housing. No state funds shall be used for the purchase of such property.

If the city, town, or local housing authority shall fail to exercise the option within 60 days, an owner shall thereafter offer 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, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold such first refusal option for the first 120 days after receipt of the owner's notice of intent to transfer the property, but in no case shall the 120 days commence before the termination of said 60-day option held by a city, town or local housing authority. 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 thereof shall

constitute a waiver of such right of first refusal by the department. No sale, transfer or other disposition of such land shall be consummated until either the first refusal option period shall have expired or the owner shall have been 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 in the county or district 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 pursuant to this section under guidelines issued by the department, such written notice shall state the name and address of such developer and the terms and conditions of such assignment. An affidavit before a notary public that the department or its designated representative or assignee has mailed such notice of intent on behalf of an owner shall conclusively establish the manner and time of the giving of such notice, and such affidavit, and such notice that the option will not be exercised shall be recorded with the registry of deeds or the registry district of the land court in the county or district 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 a description of the premises to be sold or converted adequate for identification thereof; and each such affidavit before a notary public shall have attached to it a copy of the notice of intention to which it relates. Such 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.

If the property was not previously leased or sold to the owner by a city, town or local housing authority, then prior to any sale or transfer or other disposition of any such housing assisted under this section, an owner shall offer the department or its assignee, who shall be a qualified developer selected pursuant to 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 written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold such 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 thereof shall constitute a waiver of such right of first refusal by the department.

Upon notifying the owner in writing of its intention to pursue its first refusal option during such period, the city, town or local housing authority or their assignee, or 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. Such 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 or district in which the affected real property is located. Within a reasonable time after request, the owner shall make available to the department of housing and community development or its assignee any information which is reasonably necessary for the authority to exercise its rights. The department of housing and community development or its assignee may purchase or acquire the property only for the purposes of preserving or providing affordable housing.

Funds provided for the Housing Stabilization and Investment Program shall give special attention to the preservation of affordable housing developments which are or were subject to prepayment or payment of a state or federally-assisted mortgage or which are receiving project-based rental assistance under section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, and such rental assistance is expiring, or which have received other project-based federal or state subsidies which are terminating or have terminated. Property eligible for assistance shall include housing where the prepayment or payment of a state or federally-assisted mortgage or the expiration of federal low-income housing tax credits or other federal or state subsidies would lead or has led to the termination of a use agreement for low-income housing or in which a project-based rental assistance contract is expiring or has expired. The department, in consultation with nonprofit organizations, the Massachusetts Housing Finance Agency, the Community Economic Development Assistance Corporation and the Massachusetts Housing Partnership Fund shall identify those projects at greatest risk of prepayment, payment, termination of subsidies and use restrictions, or nonrenewal of rental assistance. Funding priority shall be based on at-risk criteria to be determined by the department of housing and community development and set forth in regulations promulgated by the department.

Funds provided herein may be used for grants to cities and towns to assist with the costs of demolishing certain privately-owned vacant and abandoned buildings that have been found to be uninhabitable and not economically feasible to rehabilitate and which the city or town may demolish pursuant to sections 127A and 127B of chapter 111 of the General Laws or sections 6 to 9, inclusive, of chapter 143 of the General Laws and the regulations promulgated thereunder or which have been taken by the city or town for taxes. Any such demolition shall be undertaken in accordance with a neighborhood revitalization plan adopted by the city or town after a public hearing and after approval by the department which provides for the rehabilitation and development of housing in the areas in which such demolition is being undertaken. The department of housing and community development shall promulgate regulations for the purpose of implementing this section including, but not limited to, grants to cities and towns for demolition of certain vacant and abandoned buildings and procedures for neighborhood revitalization plans.

Notwithstanding the restrictions described in this section, funds provided for the Housing Stabilization and Investment Program shall be used for a revolving rehabilitation loan program to support the revitalization of certain abandoned or severely-distressed, privately-owned residential housing for which a court-appointed, nonprofit receiver has been

selected pursuant to chapter 111 of the General Laws. Such program may include activities necessary to make essential repairs and to pay operating expenses necessary to maintain habitability of such housing units in order to prevent abandonment and deterioration of such housing in primarily low and moderate income neighborhoods. Such loans may be administered by the department of housing and community development through contracts with the Community Economic Development Assistance Corporation, a body politic and corporate entity established in section 3 of chapter 40H of the General Laws, and through contracts with the Massachusetts Housing Partnership Fund, an instrumentality of the commonwealth established in section 35 of chapter 405 of the acts of 1985. The recipients may enter into subcontracts to administer the purposes of such contracts with other for-profit or nonprofit organizations. The department of housing and community development shall promulgate regulations for the purpose of implementing this section.

The department shall provide loans to nonprofit developers for the acquisition of property to provide or preserve affordable housing. Such program of loans may be administered by the department of housing and community development through contracts with the Community Economic Development Assistance Corporation. Such program may include acquisition, financing and other holding costs, interim management and operating costs and may also be used by the Community Economic Development Assistance Corporation to secure, collateralize or reserve against other financing obtained by the Community Economic Development Assistance Corporation to support such costs. Not less than 50 per cent of the beneficiaries of such housing shall be persons of income not more than 80 per cent of the area median income as determined from time to time by the United States Department of Housing and Urban Development and not less than 25 per cent of the beneficiaries of such housing shall be persons whose income is not more than 30 per cent of the area median income as determined from time to time by the United States Department of Housing and Urban Development.

Notwithstanding the restrictions described in this section, funds provided for the Housing Stabilization and Investment Program may be used to support the rehabilitation of owner-occupied 1 to 4-family properties and the acquisition and rehabilitation of such properties by persons of low or moderate income. The program may include, but shall not be limited to, direct loans, loan guarantees and loan loss reserves; provided, however, that the objective of such program shall include the following: (1) projects shall rely, to the greatest extent possible, on bank financing and other taxable financing to support the costs of such acquisition and rehabilitation; (2) coordinating the delivery of such financing and related rehabilitation services with cities and towns that provide such assistance utilizing federal community development block grants, federal HOME funds, and other resources; (3) expediting and simplifying the process by which home buyers may obtain financial and technical assistance for such acquisitions and rehabilitation; and (4) ensuring that adequate provisions are in place to assure that rehabilitation is completed in a timely and professional manner and to protect homeowners from excessive acquisition and rehabilitation costs.

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Notwithstanding the restrictions described in this section, funds provided for the Housing Stabilization and Investment Program may be used for deferred payment second mortgage loans to support the acquisition and rehabilitation or the new construction of small multifamily rental properties pursuant to the Permanent PLUS Program to be administered by the department of housing and community development through contracts with the Massachusetts Housing Partnership Fund. The Massachusetts Housing Partnership Fund shall enter into agreements to ensure that at least 20 per cent of the units are affordable to persons whose income is less than 50 per cent of the area median income, at least 40 per cent of the units are affordable to persons whose income is less than 60 per cent of the area median income, or at least 50 per cent of such units are affordable to persons whose income is less than 80 per cent of the area median income, as such incomes are determined from time to time by the United States Department of Housing and Urban Development.

Notwithstanding the restrictions described in this section, funds provided for the Housing Stabilization and Investment Program may be used for the purposes of the Soft Second Mortgage program described in item 3322-8880 of section 2 of chapter 110 of the acts of 1993.

Any money received from loan repayments pursuant to this section shall be deposited in the HOME Investment Trust Fund and may be expended by the department solely for the purposes set forth in this section.

SECTION 8. The department of housing and community development shall file a report with the joint committee on housing and the joint committee on bonding, capital expenditures and state assets not later than March 1, 2006, and annually thereafter, relative to data collection for affordable housing acquired, produced, preserved or otherwise assisted using funds authorized by this act. The report shall also include current, accurate and detailed information on the residents occupying said housing; provided, however, that the department shall gather, compile and distribute data regarding the resources used for and beneficiaries of such housing; provided further, that this data shall include, but not be limited to, location of housing, type of housing, number of bedrooms, accessibility, size of family, age and number of children, income level of households, the household's most recent residence prior to their current residence and race and ethnicity of those occupying the housing; and provided further, that this information shall be collected for comparison of racial composition and income distribution within census tracts.

Approved July 28, 2005.

Chapter 54. AN ACT PROVIDING COUNSEL TO INDIGENT PERSONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to improve providing counsel to indigent persons, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 211D of the General Laws is hereby amended by striking out section 2½, as appearing in the 2004 Official Edition, and inserting in place thereof the following section:-

Section 2½. (a) Notwithstanding any general or special law to the contrary, a person claiming indigency under the provisions of section 2 must execute a waiver authorizing the court's chief probation officer or his designee, to obtain the person's wage and tax information from the department of revenue and any other information from the registry of motor vehicles that the court may find useful in verifying the person's claim of indigency. The waiver shall authorize the chief probation officer, or his designee, to conduct any further re-assessment required by this section.

(b) It shall be the responsibility of the chief probation officer assigned to each court to ensure that a person claiming to be indigent meets the definition of indigency under section 2. A person seeking the appointment of counsel shall be interviewed by the chief probation officer or his designee before the appointment of counsel. The person conducting the interview shall explain to the person seeking appointment of counsel (1) the definition of indigency, (2) the process used to verify his information with other state agencies, and (3) the consequences of misrepresenting his financial information in applying for the appointment of counsel. The person conducting the interview shall prepare a written indigency intake report that shall record the results of the interview and his recommendation on whether or not the person seeking appointment of counsel is indigent. The person seeking appointment of counsel and the person conducting the interview shall sign the indigency intake report. In signing the report, the person seeking appointment of counsel shall certify under the pains and penalties of perjury that the information contained therein is true and that he has not concealed any information relevant to his financial status. All statements contained in the report shall be deemed material statements. The completed report shall be presented to a judge who may adopt or reject the recommendations in the report, either in whole or in part.

(c) Any appointment of counsel by the court is at all times subject to verification of indigency by the chief probation officer assigned to each court. Not later than 60 days after the appointment of counsel, the chief probation officer or his designee shall complete a re-assessment of the financial circumstances of the person for whom counsel was appointed to ensure that such person continues to meet the definition of indigency. In preparing his re-assessment, the chief probation officer or his designee may access wage and tax information in the possession of the department of revenue and such other information relevant to the verification of indigency in the possession of the registry of motor vehicles. Said departments shall provide such information to the chief probation officer or his designee upon request. Upon completion of his re-assessment, the chief probation officer shall prepare a written report of his findings. The chief probation officer shall sign the report, certifying that the person for whom counsel was appointed either continues to meet or does

not continue to meet the definition of indigency. The report shall be filed with the case papers and shall be presented to the judge presiding at the person's next court appearance. If, upon receipt of the report, a judge finds that the person for whom counsel was appointed no longer meets the definition of indigency, he shall revoke the appointment of counsel and allow such person a reasonable continuance to obtain new counsel. Not later than 6 months after the appointment of counsel, and every 6 months thereafter, the chief probation officer or his designee shall conduct a further re-assessment of the financial circumstances of the person for whom counsel was appointed to ensure that he continues to meet the definition of indigency and shall prepare, sign and file a written report certifying that the person either continues to meet, or does not continue to meet, the definition of indigency.

(d) If a criminal defendant is charged with a second or further offense while continuing to be represented by court-appointed counsel for a previously charged offense, the court in its discretion shall determine whether any further determination of indigency, other than the 60-day and bi-annual re-assessments required by the defendant's representation for the first offense, need be undertaken. Upon completion of a re-assessment, the chief probation officer shall prepare a written report of his findings. The chief probation officer shall sign the report, certifying that the defendant either continues to meet or does not continue to meet the definition of indigency. The report shall be filed with the case papers and shall be presented to the judge presiding at the defendant's next court appearance. If, upon receipt of the report, a judge finds that the defendant no longer meets the definition of indigency, he shall revoke the appointment of counsel and allow the defendant a reasonable continuance to obtain new counsel.

(e) If the court finds that a person has materially misrepresented or omitted information concerning his property or assets for purposes of determining indigency, and that such person does not meet the definition of indigency, the court shall immediately terminate any assignment or appointment of counsel made under chapter 211D and shall assess costs of not less than \$500 against such person.

(f) A person provided counsel under this chapter shall be assessed a counsel fee of \$150, which the court may waive only upon determining that the person is unable to pay such \$150 within 180 days. If, upon reviewing the chief probation officer's report on the 60-day re-assessment of the person's indigency, the court concludes that the person is able to pay the \$150 counsel fee of which he obtained a waiver, the court shall invalidate the waiver and re-impose the \$150 counsel fee.

(g) The court may authorize a person for whom counsel was appointed to perform community service in lieu of payment of the counsel fee. A person seeking to work off his counsel fee in community service shall perform 10 hours of community service for each \$100 he owes in legal counsel fees. Notwithstanding any general or special law, rule or regulation to the contrary, a court proceeding shall not be terminated and the person shall not be discharged if he owes any portion of the legal counsel fee imposed by this section. The clerk shall not release any bail posted on such court proceeding until the legal counsel fee is satisfied in accordance with this chapter.

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(h) The clerk of the court shall, within 60 days of appointment after counsel, report to the department of revenue and the registry of motor vehicles the amount of any legal counsel fee owed by the person for whom counsel was appointed under this chapter. The department of revenue shall intercept the fee from tax refunds due to persons who have not paid it. The registrar of motor vehicles shall place a lien in the amount of any portion of the legal counsel fee owed by the person for whom counsel was appointed upon the title of any motor vehicle owned in whole or in part by him. If the person for whom counsel was appointed does not own a motor vehicle the registry of motor vehicles shall not issue or renew such persons' driver's license or motor vehicle registration for any vehicle subsequently purchased by such person. The registry of motor vehicles shall not release the lien or issue or renew the license or motor vehicle registration until it receives notification from the clerk of the court that the fee has been collected or worked off in community service.

(i) The office of the commissioner of probation shall submit quarterly reports to the house and senate committees on ways and means detailing the effectiveness of any procedures implemented pursuant to this section to verify an individual's claim of indigency. The report shall include, but not limited to, the number of individuals determined to be indigent, number of individuals determined not to be indigent, number of individuals found to have concealed or otherwise misrepresented information relevant to his financial status, number of individuals found to no longer qualify for appointment of counsel upon any re-assessment of indigency required by this section, revenue generated through collection of indigent client fees, the average indigent client fee that each court division collects per case, recommendations to improve the procedures for verifying eligibility for counsel and other pertinent information to ascertain the effectiveness of verification procedures. The information within such report shall be delineated by court division.

SECTION 1A. Section 2A of said chapter 211D, as so appearing, is hereby amended by striking out the words "need not be appointed", in line 3, and inserting in place thereof the following words:-, on motion of the commonwealth, the defendant, or on the court's own motion, shall not be appointed.

SECTION 2. Said chapter 211D is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. The rates of compensation payable to all counsel, who are appointed or assigned to represent indigents within the private counsel division of the committee in accordance with the provisions of paragraph (b) of section 6, shall, subject to appropriation, be as follows: for homicide cases the rate of compensation shall be \$100 per hour; for superior court non-homicide cases, including sexually dangerous person cases, the rate of compensation shall be \$60; for district court cases and children in need of services cases the rate of compensation shall be \$50 per hour; for children and family law cases, care and protection cases, sex offender registry cases and mental health cases the rate of compensation shall be \$50 per hour. These rates of compensation shall be reviewed periodically at public hearings held by the committee at appropriate locations throughout the state, and notice shall

be given to all state, county and local bar associations and other interested groups, of such hearings by letter and publication in advance of such hearings. This periodic review shall take place not less than once every 3 years.

Any counsel who is appointed or assigned to represent indigents within the private counsel division is prohibited from accepting any new appointment or assignment to represent indigents after he has billed 1400 billable hours during any fiscal year.

SECTION 3. Chapter 277 of the General Laws is hereby amended by striking out section 70C, as so appearing, and inserting in place thereof the following section:-

Section 70C. Upon oral motion by the commonwealth or the defendant at arraignment or pretrial conference, or upon the court's own motion at any time, the court may, unless the commonwealth objects, in writing, stating the reasons for such objection, treat a violation of a municipal ordinance, or by-law or a misdemeanor offense as a civil infraction. The provisions of this section shall not apply to the offenses in sections 22F, 24, 24D, 24G, 24L, and 24N of chapter 90, sections 8, 8A, and 8B of chapter 90B, chapter 119, chapter 119A, chapter 209, chapter 209A, chapter 265, sections 1, 2, 3, 6, 6A, 6B, 8B, 13, 13A, 13B, 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23, 28, 31 and 36 of chapter 268, chapter 268A, sections 10, 10A, 10C, 10D, 10E, 11B, 11C, 11E, 12, 12A, 12B, 12D and 12E of chapter 269 and sections 1, 2, 3, 4, 4A, 4B, 6, 7, 8, 12, 13, 16, 28, 29A and 29B of chapter 272. If a motion to proceed civilly is allowed, 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. The commonwealth shall maintain a copy of all objections filed under this section and shall report the number of such objections, delineated by divisions of the district court, every 6 months to the house and senate committees on ways and means.

When the court has treated a violation of a municipal ordinance or by-law or a misdemeanor offense as a civil infraction under this section and the ordinance, by-law or misdemeanor in question does not set forth a civil fine as a possible penalty, the court may impose a fine of not more than \$5,000. An adjudication of responsibility shall neither 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. An adjudication of responsibility under this section may include an order of restitution.

SECTION 4. Item 0321-1510 of section 2 of chapter 45 of the acts of 2005 is hereby amended by striking out the words "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 2005".

SECTION 5. Notwithstanding any special or general law to the contrary, there shall be in each district, as established under section 13 of chapter 12 of the General Laws, a pilot program providing adjunct staffing within the public defender division of the committee for public counsel services for which the committee shall hire 10 attorneys, 1 investigator and 2 support staff and provide such attorneys and staff with sufficient office space and office

resources. The chief counsel of the committee shall assign the attorneys throughout the various district court divisions of each district in a manner that, in his determination, will likely result in the most effective and efficient representation of persons claiming indigency within each district. The assignment procedures may be amended by the chief counsel of the committee as he sees fit. The chief counsel of the committee shall provide quarterly reports to the house and senate committees on ways and means which shall include, but not be limited to, the following: the actual costs incurred in operating the pilot programs, including a detailed itemization of such costs; the number of cases handled by each attorney; the number of cases disposed of during each reporting period; the average time to dispose of said cases; a schedule detailing the court assignments of each attorney and; the rationale for such attorney assignments.

SECTION 6. Notwithstanding any general or special law to the contrary, there shall be a permanent commission to study and analyze the imposition of civil penalties on certain offenses within the commonwealth. The duties and responsibilities of the commission shall include, but not be limited to, the following: (i) identify all violations of the general laws that are currently classified as a misdemeanor; (ii) determine the number of arrests made per year pursuant to such statutory violations; (iii) determine the number of such arrests which result in charges being filed by a district attorney's office and the percentage of such charges for which the commonwealth sought incarceration; (iv) determine the number of cases disposed of per year pursuant to such statutory violations; (v) determine the number of convictions per year pursuant to such statutory violations; (vi) determine the number of persons incarcerated in a house of correction pursuant to such statutory violations and; (vii) the number of occurrences per year in which a district attorney's office exercised the discretion authorized by section 70C of chapter 277 of the General Laws.

Based upon an analysis of such data, the commission shall determine the feasibility of classifying misdemeanor offenses as either "class A" misdemeanors or "class B" misdemeanors. Under such system of classification, "class A" misdemeanors would be criminal offenses deemed serious enough to warrant the possibility of incarceration in a house of correction and "class B" misdemeanors would be criminal offenses deemed non-serious and warrant assessment of a civil fine with no possibility of incarceration. Under such system, any person charged with the violation of a "class B" misdemeanor would be ineligible for appointment of counsel.

The commission shall consist of the following 11 members: the governor, or his designee; the speaker of the house of representatives, or his designee; the president of the senate, or his designee; the attorney general, or his designee; the chief justice of administration and management of the trial court, or his designee; the chief counsel of the committee for public counsel services, or his designee; a designee of the private counsel division of said committee; the president of the Massachusetts Association of District Attorneys, or his designee; the president of the Massachusetts Bar Association, or his designee; the president of the Boston Bar Association, or his designee; and the commissioner of probation, or his designee.

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The commission shall file an annual report of its activities and any legislative recommendations to the house and senate committees on ways and means not later than December 31 of each year. The report shall include, but not be limited to, the number of charges which would fall into class A misdemeanor or class B misdemeanor classification pursuant to this section that were filed during the preceding calendar year and the number of such misdemeanors for which private counsel was appointed.

SECTION 7. Notwithstanding any general or special law to the contrary, the committee for public counsel services may hire an additional 20 attorneys to handle children and family laws cases and juvenile court cases. The additional attorneys shall be assigned to existing committee for public counsel services offices. The committee shall submit a report to the house and senate committees on ways and means not later than April 1, 2006 on the efficiencies and cost-savings gained from these additional attorneys. The report shall include, but not be limited to, the following: (1) the number of assignment of counsel that has shifted from private bar advocates to the public defender division as a result of the hiring of the additional 20 attorneys, (2) the savings the commonwealth has realized as a result of the additional attorneys since the effective date of this act, and (3) the office to which each additional attorney has been assigned and the reason or reasons for such assignment.

SECTION 8. There shall be a commission to study the implementation of a dedicated fee, multiple fees, surcharge or combination thereof to be used for the purpose of providing counsel to indigent persons who are entitled to the assistance of assigned counsel either by constitutional provision, or by statute, or by rule of court. The commission shall be composed of 9 persons, including 3 members to be appointed by the speaker of the house of representatives, 3 by the president of the senate, and 3 by the governor. The commission shall recommend a fee structure to provide all or a portion of funding for counsel to indigent persons which shall include, but not be limited to; an additional fee assessed to members of the Massachusetts Bar; a surcharge on fines levied as part of criminal or civil sanction by a court; and a surcharge on parking and traffic citations. The commission shall report its findings and recommendations together with drafts of legislation as may be necessary to carry such recommendations, into effect, by filing the same with the clerks of the house and senate on or before March 1, 2006.

SECTION 9. Section 2 shall take effect as of July 1, 2005.

Approved July 29, 2005.

Chapter 55. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

Article VI of the charter of the town of Rockland, which is on file in the office of the

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archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by adding the following section:-

Section 6.07 There shall be a capital planning committee comprised of 7 voting members, 2 of whom shall be appointed by the board of selectmen, 2 by the finance committee, 1 by the school committee, and 2 by the moderator. When first constituted the board of selectmen, the finance committee and the moderator shall each appoint 1 member for a 3-year term and the school committee 1 member for a 2-year term. The board of selectmen, the finance committee and the moderator shall each appoint 1 member for a 1-year term. Thereafter, following the annual town meeting, appointments to the committee shall be made by the the same appointing authorities so as to provide for overlapping 3-year terms. Two members of the committee may also be current members of the finance committee. The town administrator and the town accountant shall be non-voting ex-officio members.

(b) The capital planning committee shall study proposed capital projects and improvements involving major recurring and non-recurring tangible assets and projects which (1) are purchased or taken at intervals of not less than 5 years; or (2) have a useful life of at least 5 years, and; (3) cost over \$50,000. All officers, boards, departments, and committees, shall, by October 1 of each year, give to the capital planning committee, on forms furnished by the capital planning committee, information concerning all anticipated projects requiring town meeting appropriation during the ensuing 5 years. Using the revenue and expenditure projections prepared by the town administrator, the capital planning committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town. An appropriation shall not be voted for a capital improvement request by the department, board, or committee unless the proposed capital improvements is considered in the committee's report or the committee shall first have submitted a report to the town meeting explaining the omission.

(c) The capital planning committee shall prepare an annual report recommending a capital improvement budget for the next fiscal year and a capital improvement program, including recommending budget for the next fiscal year and capital improvement program, including recommended capital improvements for the following 4 fiscal years. The report shall be submitted to the board of selectmen for review and recommendations.

(d) The capital planning committee's report and the board of selectmen's recommended capital improvement budget shall be published and made available in a manner consistent with the distribution of the operating budget.

Approved August 3, 2005.

**Chapter 56. AN ACT RELATIVE TO THE WATER AND SEWER COMMISSION
IN THE TOWN OF CHARLTON.**

Be it enacted, etc., as follows:

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SECTION 1. Section 1 of chapter 17 of the acts of 2002 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The commission shall have all the powers and duties conferred by the General Laws and by any other applicable laws governing the establishment and operation of water and sewer commissions under sections 63 and 69A of chapter 41 of the General Laws including, without limitation, those powers and duties conferred by sections 65 and 69B of said chapter 41, chapter 83 and sections 38 to 42K, inclusive, of chapter 40 of the General Laws. Upon election and qualification, the commission shall succeed to all the responsibilities and powers of the present Charlton water and sewer commission under applicable laws.

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

Approved August 3, 2005.

Chapter 57. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Subsection A of section 2.05 of Article II of the charter of the town of Rockland, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the word "Tax" and inserting in place thereof the following word:- Town.

SECTION 2. Subsection B of said section 2.05 of said Article II is hereby amended by striking out the word "Tax" and inserting in place thereof the following word:- Town.

SECTION 3. The person holding the elected office of tax collector on the effective date of this act shall be considered to have been elected to the office of town collector and shall remain in the office until the expiration of the term to which he was elected, unless he sooner resigns or is removed or recalled.

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

Approved August 3, 2005.

Chapter 58. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Article II of the charter of the town of Rockland, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by adding the following 3 sections:-

SECTION 2.17. The board of selectmen by an affirmative vote of at least 4 members shall appoint a town administrator for a 1-year probationary term. Subsequent terms of up to 3 years may be made following the probationary term.

(a) The town administrator shall be appointed solely on the basis of executive, administrative and municipal experience. His education should consist of a bachelor's degree in public or business administration or related field; a master's degree in public administration is preferred. In the absence of either degree, a minimum of 10 years actual work experience shall be required and shall consist of at least 5 years of progressively responsible experience in municipal management, 3 years of which shall be as a chief administrative or assistant administrator in a municipal organization. He shall not have served in an elective office in or for the town of Rockland for at least 12 months before his appointment.

(b) The town administrator shall devote full time to the office and shall not hold any other public office, elected or appointed, nor engage in any other business, occupation, or profession during their term of office, unless the board of selectmen approves the action in advance in writing. The town may from time to time, by by-law establish additional qualifications as it considers necessary and appropriate.

(c) The town administrator shall execute a bond in favor of the town of Rockland for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed by the board of selectmen. The town shall pay the cost of the bond.

SECTION 2.18. (a) The board of selectmen by affirmative vote of at least 4 members may suspend or remove the town administrator from office. If the board of selectmen affirmatively votes to suspend or remove the town's administrator, the board shall give at least 60 days notice as to the effective date of his suspension or termination, or provide 60 days of severance pay, or a combination of both notice and severance pay equivalent to at least 60 days. At least 30 days before the proposed suspension or termination becomes effective the board of selectmen shall file a preliminary written resolution with the town clerk setting forth in detail the specific reason for the proposed suspension or termination. A copy of the resolution shall be delivered to the town administrator. The town administrator may within 10 days of service of the resolution, reply in writing to the resolution and may request a public hearing. If the town administrator so requests, the board of selectmen shall hold a public hearing not earlier than 20 days nor later than 30 days after the filing of the request. After the public hearing, if any, otherwise at the expiration of 30 days following the filing of the preliminary resolution, the selectmen may suspend or terminate the town administrator from duty. In the event the town administrator is charged with a criminal act, alleged to have been perpetrated while performing his job, suspension without pay is immediate and if the town administrator is not exonerated of the charges, termination is immediate and no notice or severance shall be provided. Nothing contained herein shall limit the authority of the board of selectmen to suspend or terminate the town administrator as provided by state, federal or local law.

(b) If the office of town administrator is vacant, as a result of death, removal, resignation, or otherwise, or the town administrator is on a leave of absence exceeding 2 weeks, the board of selectmen by affirmative vote of at least 3 members, shall appoint a qualified town administrator officer, or employee to serve as acting town administrator. The acting town administrator shall receive compensation as set by the affirmative vote of at least 3 selectmen, but shall not exceed the rate of compensation approved for the town administrator being replaced. The appointment of the acting town administrator shall not exceed a 4-month period.

SECTION 2.19. (a) The town administrator shall be the administrative officer of the town of Rockland, reporting directly to the board of selectmen and acting as its agent. He shall be responsible for the effective and professional administration of the day-to-day affairs of the town in the absence of the board of selectmen as described herein.

(b) The town administrator shall administer this charter, either directly or through a person or persons appointed by the board of selectmen.

(c) The town administrator shall be responsible for the proper administration and development of the annual operating budget process.

(d) The town administrator shall recommend to the board of selectmen strategic plans and objectives for mitigation or other purposes. He shall have prepared multi-year forecasts on revenues and expenditures for use in analyzing financial impacts in collective bargaining issues, insurance costs, and other long-term costs. He shall commend to the board of selectmen, for their approval, debt management, and capital planning policies. He shall further recommend policies and long-range goals to improve the efficiency and effectiveness of town government.

(e) The town administrator shall keep the board of selectmen fully informed regarding all departmental operations, fiscal affairs, general problems, and administrative actions. He shall keep the board of selectmen and the finance committee informed as to the financial condition and the needs of the town.

(f) The town administrator shall act as the town's insurance coordinator. He shall be responsible for ensuring that all pertinent policies are in effect, see that adequate insurance coverage is provided, ensure that claims are properly processed, conduct cost benefit analyses on existing policies and propose changes. He shall render an annual report to the board of selectmen on all claims made and losses sustained.

(g) The town administrator shall act as grant coordinator for the town. He shall collect and distribute information concerning grants, establish uniform procedures for grant applications, prepare or assist in developing grant proposals and shall monitor all town grants to ensure fiscal and program compliance.

(h) The town administrator, in cooperation with other town officials selected by him, shall establish policies, procedures and guidelines for town procurements in accordance with applicable federal, state, and local laws. He shall keep an inventory of the real and fixed assets of the town.

(i) The town administrator shall be responsible for the approval of the purchase of all supplies, materials, equipment, and other services, for departments or agencies under the jurisdiction of the board of selectmen.

(j) The town administrator in the absence of the board of selectmen shall act as agent of the board of selectmen in coordinating activities, budgets, and day to day operations of the town departments, boards, committees, and commissions that come under the jurisdiction of the board of selectmen. He shall coordinate these activities with officers and boards elected by the voters, keeping all informed of ongoing activities and issues.

(k) The town administrator shall plan, organize and supervise the operational audits of the activities of town departments to evaluate the efficiency of resource utilization and the effectiveness of governmental services. Audit areas may include staffing, scheduling, vehicle management, and any other topic requested by the board of selectmen.

(l) The town administrator shall participate in the collective bargaining process and see that the provisions of the collective bargaining agreements are enforced in departments under his jurisdiction.

(m) The town administrator shall assist the board of selectmen in recruitment and selection of department heads under their jurisdiction.

(n) The town administrator shall ensure that the town maintains a professional personnel system by monitoring the effectiveness of policies, procedures and practices as required by law, in accordance with proper personnel practices. He shall ensure that the recruitment, selection, promotion, transfer, discipline, and removal of employees are conducted in accordance with applicable state and federal laws, and with personnel by-laws and policies adopted pursuant to the same. He shall coordinate personnel administration with the personnel board.

(o) In the absence of the board of selectmen, and at its direction, he shall perform public relations functions for the board of selectmen by presenting the town's position of issues, responding to citizens complaints, preparing press releases, and representing the board at conferences, hearings, and meetings with county, state, and federal agencies. He shall act as its liaison to business, industrial and community groups.

(p) The town administrator shall be responsible for the use and maintenance of all town facilities and equipment under the jurisdiction of the board of selectmen.

(q) The town administrator shall attend all regular and special meetings of the board of selectmen and have voice but no vote in all meetings. He shall attend all regular and special sessions of the town meeting to answer questions and provide information. He shall oversee the preparation of the annual town report and town warrants.

(r) The town administrator shall see that the General Laws, the Rockland town charter and Rockland town by-laws, and the votes of town meeting, and votes of the board of selectmen are carried out and performed.

(s) The town administrator shall perform all other duties as may be required by the board of selectmen.

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SECTION 2. The town administrator of the town of Rockland holding office as of the effective date of this act shall continue to hold such office for the term of his appointment, unless he sooner resigns or is suspended or removed in accordance with the town charter.

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

Approved August 3, 2005.

Chapter 59. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Subsection E of section 6.04 of Article VI of the charter of the town of Rockland, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the words "Eight (8) members of the Finance Committee shall constitute a quorum" and inserting in place thereof the following words:- A majority of those members appointed shall constitute a quorum.

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

Approved August 3, 2005.

Chapter 60. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ZENAIDA CORREIA, 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 or rule or regulation to the contrary, the trial court shall establish a sick leave bank for Zenaida Correia, an employee of the administrative office of the juvenile court. Any employee of the trial court may voluntarily contribute 1 or more of his sick, personal or vacation days to the sick leave bank for use by Zenaida Correia for her illness or the illness of her spouse. Whenever Zenaida Correia terminates employment with the trial court or requests to dissolve the sick leave bank, the

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balance of sick leave shall be transferred to the trial court paid leave bank.

Approved August 3, 2005.

Chapter 61. AN ACT RELATIVE TO CLAIMS TRUSTS FUNDS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for audits of certain health insurance claims 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. Section 3A of chapter 32B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

Any city, town, county, or other political subdivision of the commonwealth maintaining a claims trust fund under this section shall cause an audit of that fund to be made annually. The audit shall determine whether the accounting for the fund is in accordance with generally accepted accounting principles, including accrual for claims that have been incurred but not paid as of the conclusion of the fiscal year. The audit may be performed as part of the annual audit of the city, town, county, or other political subdivision. The amount of any deficit in a claims trust fund, if not otherwise provided for, shall be raised in the next fiscal year's tax rate for a city or town, or be provided in the next fiscal year's budget for any other political subdivision and credited to the claims trust fund. Nothing in this paragraph shall eliminate the requirement of the preceding paragraph with respect to adjusting the future ratio of monthly premium contributions of the subdivision and its employees and retirees to achieve a previously established ratio or ratios of monthly premium contributions.

SECTION 2. Notwithstanding any general or special law to the contrary, any city, town, county, or other political subdivision of the commonwealth which has a deficit in its claims trust fund at the end of fiscal year 2005 attributable to failure to accrue claims which had been incurred but not paid as of the conclusion of that fiscal year, is authorized to capitalize the deficit and amortize the amount over the 3 fiscal years beginning July 1, 2006 in 3 equal amounts, or on a schedule providing for a more rapid amortization.

Approved August 3, 2005.

Chapter 62. AN ACT RELATIVE TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY.

Be it enacted, etc., as follows:

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SECTION 1. Paragraph (d) of section 8 of chapter 372 of the acts of 1984 is hereby amended by inserting after the word "Quincy", in line 7, the following word:- , Reading.

SECTION 2. Notwithstanding section 1, the provision of water services by the Massachusetts Water Resources Authority to the town of Reading shall commence only after the Massachusetts Water Resources Authority board of directors has voted approval after making findings as required in clauses (1) to (6), inclusive, of said paragraph (d) of section 8 of chapter 372 of the acts of 1984 and other determinations in accordance with its applicable policies, and after all required approvals have been received, including approval of other regulatory bodies where required and the advisory board of the authority, but section 71 of said chapter 372 shall not apply.

Approved August 3, 2005.

Chapter 63. AN ACT AUTHORIZING INDEMNIFICATION OF CERTAIN OFFICERS FOR ACTIONS CONCERNING THE CITY OF SPRINGFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the secretary for administration and finance may indemnify, exonerate, defend and hold harmless the members and staff of the finance control board established by section 4 of chapter 169 of the acts of 2004, from all personal financial loss and expenses, including legal fees and costs, if any, arising out of or relating to actions taken by the members and staff while acting under said chapter 169. Amounts available in the Springfield Fiscal Recovery Trust Fund established under section 2 of said chapter 169 may be expended for the purposes specified in this section.

SECTION 2. Notwithstanding any general or special law to the contrary, the commonwealth shall indemnify, exonerate, defend and hold harmless the secretary for administration and finance from all personal financial loss and expenses, including legal fees and costs, if any, arising out of or relating to actions taken by the secretary under chapter 169 of the acts of 2004. Amounts available in the said Springfield Fiscal Recovery Trust Fund may be expended for the purposes specified in this section.

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

Approved August 4, 2005.

Chapter 64. AN ACT RELATIVE TO THE WATER COMMISSIONERS OF THE TOWN OF SPENCER.

Be it enacted, etc., as follows:

Chapter 17 of the acts of 1928 is hereby amended by inserting after section 3 the following section:-

Section 3A. Notwithstanding the foregoing provisions, the operations of the water department, which are under the control of the commissioners, and the method of selection of the commissioners shall be as set forth in local by-law adopted at any annual or special town meeting. Sections 2 and 3 of this act shall continue to be in full force and effect until the effective date of any such by-law duly adopted and so certified by the attorney general and by the town clerk.

Approved August 4, 2005.

Chapter 65. AN ACT DESIGNATING THE MASSACHUSETTS NATIONAL GUARD WAY IN THE CITY OF WESTFIELD.

Be it enacted, etc., as follows:

The portion of state highway Route 20 in the city of Westfield that is 500 feet west of the westerly side of Bridge number W-25-4, including the bridge, as designated by the department of highways, spanning the Westfield river and also including Bridge number W-25-3, as designated by the department of highways, spanning Powdermill Brook, and continuing to the city limit with the town of West Springfield shall be designated and known as Massachusetts National Guard Way. Bridge number W-25-4 shall be designated and known as Massachusetts Air National Guard bridge and Bridge number W-25-3 shall be designated and known as Massachusetts Army National Guard Bridge. The department of highways shall erect and maintain suitable markers bearing these designations in compliance with the standards of the department. The department shall incorporate the emblems of the Massachusetts Army National Guard, the Massachusetts Air National Guard and the commonwealth in the design of the markers.

Approved August 6, 2005.

Chapter 66. AN ACT RELATIVE TO CERTAIN PERSONS DUALY ELIGIBLE FOR THE MEDICARE AND MEDICAID PROGRAM.

Be it enacted, etc., as follows:

Section 9D of chapter 118E of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

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(q) Notwithstanding any general or special law to the contrary, the secretary of health and human services may review a request for financial solvency certification by a care delivery organization based in the commonwealth applying to serve as a Medicare Advantage Special Needs Plan caring for residents of the commonwealth who are dually eligible for Medicare and Medicaid. Upon determination that appropriate financial standards, which may be the standards already in place for organizations with contracts pursuant to this section, have been met, the secretary shall so certify to the Centers for Medicare & Medicaid Services. The secretary may require the requesting organization to pay a reasonable certification fee.

Emergency Letter: 8/11/05 @ 4:02 P.M.

Approved August 11, 2005.

Chapter 67. AN ACT EXEMPTING CERTAIN POSITIONS IN THE POLICE DEPARTMENT IN THE CITY OF NORTHAMPTON FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

Section 1 of chapter 500 of the acts of 2004 is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Pursuant to the Memoranda of Understanding between the city of Northampton and the International Brotherhood of Police Officers, effective July 1, 2003, the following positions shall be covered by this act and the code of ordinances of the city of Northampton:- (1) all patrol officers, (2) all police sergeants, (3) all police lieutenants, (4) all police captains, and (5) the police chief. These positions shall be exempt from chapter 31 of the General Laws.

Approved August 11, 2005.

Chapter 68. AN ACT EXEMPTING CERTAIN POSITIONS IN THE FIRE DEPARTMENT IN THE CITY OF NORTHAMPTON FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. (a) The mayor of the city of Northampton shall be the appointing authority for all sworn firefighter positions including the fire chief. All firefighter positions in the city of Northampton covered by this act shall be exempt from chapter 31 of the General Laws.

(b) Pursuant to the collective bargaining agreements between the city of Northampton

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and the International Association of Fire Fighters (I.A.F.F.) and the Northampton Deputy Fire Chiefs' Association (N.D.F.C.A.), effective July 1, 2004, the following employees shall be covered by this act and the code of ordinances of the city of Northampton:

- (1) all firefighters, firefighter/EMT's, fire inspectors,
- (2) all fire captains, and
- (3) all deputy fire chiefs.

SECTION 2. Notwithstanding chapter 250 of the acts of 1883, any other general or special law or any ordinance of the city of Northampton to the contrary, appointments, promotions, disciplinary actions and terminations of all sworn fire personnel in the city of Northampton shall be conducted in conformity with such requirements as may be set forth in: (a) a collective bargaining agreement; (b) an employment contract in effect between the city and the individual; or (c) the personnel policies of the city of Northampton and the Northampton fire department.

SECTION 3. Each incumbent employee who has the present status of permanent civil service employee in the fire department shall retain this civil service status until the employee no longer serves in that position.

Approved August 11, 2005.

Chapter 69. AN ACT EXEMPTING THE POSITION OF POLICE CHIEF IN THE TOWN OF WINCHENDON FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of police chief in the town of Winchendon shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of the person holding the position of police chief in the town of Winchendon on the effective date of this act.

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

Approved August 11, 2005.

Chapter 70. AN ACT RELATIVE TO BORROWING BY THE TOWN OF MILFORD FOR THE FUNDING OF THE GERIATRIC AUTHORITY OF MILFORD.

Be it enacted, etc., as follows:

SECTION 1. Section 10A of chapter 76 of the acts of 1982, as amended by chapter

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489 of the acts of 2004, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- Each authorized issue shall constitute a separate loan, the loans shall be paid in not more than 40 years from their dates and the maturities of each loan shall be arranged so that the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue the bonds or notes or, in the alternative, in accordance with a schedule providing a more rapid amortization of principal.

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

Approved August 11, 2005.

Chapter 71. AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO GRANT 5 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES AND 4 ADDITIONAL LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding sections 12 and 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the Pittsfield licensing board may grant 5 additional licenses for the sale of all alcoholic beverages to be drunk on the premises, and 4 additional licenses for the sale of wines and malt beverages to be drunk on the premises, subject to the conditions set forth in this act.

(b) The licensing board may reserve, until December 1, 2006, 1 of the all alcoholic beverages licenses for a downtown business to be located in the same building as the downtown movie theatre project and to reserve 1 of the all alcoholic beverages licenses for the Colonial Theatre Association upon its application for the same within 90 days of the first planned performance at the Colonial Theatre.

(c) The licensing board may restrict the remaining licenses to business entities that locate in the designated Downtown Economic Development Zone. The zone is more particularly shown on a plan entitled "Amended Downtown Pittsfield EOA", which is on file with the city of Pittsfield licensing board and attached hereto.

(d) Notwithstanding said section 12 of said chapter 138, these additional licenses shall be subject to an annual fee of \$1,500 more than the annual fee for existing all alcoholic beverages licenses or wines and malt beverages licenses, as applicable, in the city of Pittsfield.

(e) Notwithstanding said sections 12 and 77 of said chapter 138, the licensing board may restrict the nonreserved all alcoholic beverages licenses to bona fide downtown restaurants having a primary mission of providing restaurant goods and services in the Downtown

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Economic Development Zone. Any restaurants shall not provide direct bar service to patrons except those waiting to be seated for a meal and the license holder shall maintain a direct management role in the daily operation of the restaurant. Any such restaurant shall be determined to be a bona fide restaurant if it operates a full kitchen for a minimum of 8 hours per day or, if it is open for less than 8 hours per day, it operates a full kitchen for the entire period it is open.

(f) Notwithstanding said sections 12 and 77 of said chapter 138, the licensing board may restrict the wines and malt beverages licenses to licensees with an on-premises kitchens open for a minimum of 8 hours per day or an on-premises kitchen open for the entire period it is open.

(g) The licensing board and the alcoholic beverages control commission shall determine reasonably whether an applicant or licensee meets the criteria set forth in this act.

(h) The licenses shall not be transferable.

(i) The licenses, if revoked or no longer in use, shall be returned physically, with all of the legal rights and privileges pertaining thereto, to the licensing board.

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

Approved August 11, 2005.

Chapter 72. AN ACT CANCELLING THE PRELIMINARY ELECTION IN THE CITY OF METHUEN IN THE YEAR 2005.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the charter of the city of Methuen or any general or special law to the contrary, there shall be no preliminary elections in the city of Methuen, as otherwise required, on Tuesday, September 20, 2005 for the office of mayor, for the office of the city councilor, for the office of the school committee member, for the office of trustee of the Nevins Memorial Library, for the board members of the Methuen housing authority or for members of the Greater Lawrence Vocational Technical school committee. The candidates whose nomination papers for these offices have been duly certified shall be considered nominated.

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

Approved August 19, 2005.

Chapter 73. AN ACT AMENDING THE DESIGNATION OF A CERTAIN OVERPASS IN THE CITY OF NEW BEDFORD.

Be it enacted, etc., as follows:

Chapter 521 of the acts of 1977 is hereby amended by inserting after the word "Lopes", in line 3, the following words:- , Korean War Veteran,.

Approved August 25, 2005.

Chapter 74. AN ACT AUTHORIZING THE TOWN OF DRACUT TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Dracut may grant an additional license for the sale of wines and malt beverage not to be drunk on the premises to Scott's Food Mart, Inc. under section 15 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 person, organization, corporation or location.

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

Approved August 25, 2005.

Chapter 75. AN ACT AMENDING THE PERSONNEL POWERS OF THE TOWN MANAGER OF THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 27 of the acts of 1996 is hereby amended by striking out section 6 and inserting in place thereof the following section:-

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

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SECTION 2. Section 7 of said chapter 27 is hereby amended by striking out clause (a) and inserting in place thereof the following clause:-

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

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

Approved August 25, 2005.

Chapter 76. AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN LAND IN THE TOWN OF TEWKSBURY TO ROBERT W. LAFRENIERE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the conveyance of certain land in the town of Tewksbury, 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 sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, in consultation with the commissioner of public health may convey by deed to Robert W. Lafreniere, a parcel of land described as parcel A on a plan entitled, Subdivision Plan of Land, Tewksbury, Mass, for Roger F. Lafreniere, Scale 1" = 40'. Date: November 2004, Troy, Mede & Associates, Tewksbury MA, to be recorded with the Middlesex north registry of deeds.

SECTION 2. The conveyance authorized by section 1 shall be the full and fair market value determined by a professional appraisal commissioned by the commissioner of capital asset management and maintenance.

The inspector general shall review and approve the appraisal or appraisals, and the review and appraisal shall include an examination of the methodology utilized for the appraisal or appraisals. The inspector general shall prepare a report of his review and approval of the appraisal or appraisals and file said report with the commissioner of capital asset management and maintenance, and copies of the same shall be filed with the house and senate committees on ways and means and with the joint committee on state administration.

SECTION 3. Robert W. Lafreniere shall be responsible for all costs associated with any appraisal, survey or other expense incurred by the commonwealth relating to the conveyance authorized by section 1.

Approved August 25, 2005.

Chapter 77. AN ACT FURTHER REGULATING SALARIES OF 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 forthwith to regulate further the salaries of public employees serving in the armed forces of the United States, 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 137 of the acts of 2003 is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- An employee eligible under this section shall be paid his regular base salary as a public employee for each pay period of military leave of absence after September 11, 2001, reduced by any amount received from the United States as base pay for military service performed during the same pay period. For purposes of this section, base pay shall not include any allowances, overtime pay, shift differential pay, hazardous duty pay or any other additional compensation received for military service.

SECTION 2. Said chapter 137 is hereby amended by striking out section 21 and inserting in place thereof the following section:-

Section 21. Section 1 shall expire on September 11, 2008. Sections 2 and 3 shall expire on September 11, 2005.

Approved August 26, 2005.

Chapter 78. AN ACT ESTABLISHING A VOTING PRECINCT IN THE CITY OF PEABODY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, precinct 3 of ward 4 of the city of Peabody shall be 1 precinct for the purpose of forming congressional, representative, senatorial or councilor districts but shall have 2 polling places for the purposes of voting at any state or municipal elections. One such polling location shall be in Brooksby Village to serve voters residing within Brooksby Village and shall be known as precinct 3A of ward 4, and the other polling location shall be designated by the city council under section 24 of chapter 54 of the General Laws to serve all others in precinct 3 of ward 4 and shall be known as precinct 3.

SECTION 2. The board of registrars of voters and the city clerk of the city of Peabody shall take all necessary actions to assure compliance with this act including, but not

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limited to, assuring the accuracy of the voting lists located at each polling location set forth in section 1. The board of registrars and city clerk shall divide precinct 3 of ward 4 into subprecincts as set forth in section 1, and only the names of voters who reside in each subprecinct shall appear on the voting list for that subprecinct.

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

Approved August 26, 2005.

Chapter 79. AN ACT INCREASING THE EXPENDITURE LIMIT ON REVOLVING FUNDS IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 53E½ of chapter 44 of the General Laws or any other general or special law to the contrary, a board, department or officer of the town of Brookline may expend in any 1 fiscal year from all revolving funds under its direct control under said section 53E½ an amount equivalent to 2.5 per cent of the amount raised by taxation by the town in the most recent fiscal year for which a tax rate has been certified under section 23 of chapter 59 of the General Laws.

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

Approved August 26, 2005.

Chapter 80. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JASON MONTEIRO, 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 Jason Monteiro, an 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 Jason Monteiro, an employee of the department. Any 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 Jason Monteiro. Whenever Jason Monteiro terminates employment with the department or requests to dissolve the

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sick leave bank, the balance of sick leave shall be transferred to the extended illness leave bank.

Approved September 1, 2005.

Chapter 81. AN ACT MAKING APPROPRIATIONS TO PROVIDE FUNDING FOR CERTAIN ACTIVITIES AND PROJECTS ASSOCIATED WITH THE COMMONWEALTH'S EFFORTS TO HELP THE VICTIMS OF HURRICANE KATRINA.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith appropriations for the victims of hurricane Katrina, 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 an alteration of purpose for current appropriations, and to meet certain requirements of law, the sum set forth in section 2A is hereby appropriated from the General Fund unless specifically designated otherwise, for the several purposes and subject to the conditions specified in this act, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2005. The sum appropriated shall be in addition to any amounts previously appropriated and made available for the purposes of this item. The funds appropriated in section 2A shall be available for expenditure until June 30, 2006.

NO SECTION 2.

SECTION 2A.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary

1599-2005 For a reserve to fund the costs associated with assisting the victims of hurricane Katrina, including, but not limited to, costs of commonwealth personnel and overtime expenses, immediate living and medical costs, and costs incurred by political subdivisions of the commonwealth; provided, that the secretary for administration and finance may transfer from this item to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan

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which shall be filed in advance with the house and senate committees on ways and means \$25,000,000

SECTION 3. Notwithstanding any general or special law to the contrary, the secretary for administration and finance may indemnify, exonerate, defend and hold harmless any and all commonwealth employees and other persons, from all personal financial loss and expenses, including legal fees and costs, arising out of or relating to actions taken by these employees or other persons under the authority of this act. Amounts available in the executive office for administration and finance under section 2A may be expended for the purposes specified in this section.

Approved September 6, 2005.

Chapter 82. AN ACT AUTHORIZING THE TOWN OF DENNIS TO ESTABLISH A BEACH CAPITAL IMPROVEMENTS FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, there shall be a special fund in the town of Dennis to be known as the Beach Capital Improvements Fund. There shall be deposited into the fund, without further appropriation, a portion of the fees collected from the sale of beach daily parking stickers. Appropriations from the fund shall be made by the town of Dennis only for beach-related capital improvements.

SECTION 2. Two dollars of the fee collected from the sale of a beach daily parking sticker shall be deposited in the Beach Capital Improvements Fund. Thereafter, the board of selectmen of the town of Dennis may, if authorized by by-law, increase or decrease the portion of the beach daily parking sticker fee that shall be deposited into the fund.

SECTION 3. The Beach Capital Improvements Fund shall be maintained by the town treasurer as a separate account, subject to any applicable provisions of chapter 44 of the General Laws and any interest earned thereon shall be credited to and become part of the separate account.

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

Approved September 7, 2005.

Chapter 83. AN ACT AUTHORIZING THE CITY OF NEW BEDFORD TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

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SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of New Bedford may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises to the Sporting Soccer Club in the city of New Bedford 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 person, organization, corporation or location.

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

Approved September 7, 2005.

Chapter 84. AN ACT GRANTING PENSION BENEFITS TO WILLIAM I. GRIFFITHS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 7 of chapter 32 of any other general or special law, rule, or regulation to the contrary, and in order to promote the public good, the state-Boston retirement board shall grant an increased accidental disability retirement allowance to officer William I. Griffiths of the Boston police department, who, as a result of injuries sustained while in the performance of his duties on July 23, 2001, is unable to perform the essential duties of his job and this inability is likely to be permanent.

SECTION 2. The annual amount of pension payable to William I. Griffiths shall be equal to the regular annual rate of compensation which he would have received had he continued in service as a police officer of the Boston police department at the grade held by him at the time of his retirement.

This retirement shall become effective on the date immediately following the final day for which he received regular compensation for his employment.

Upon his retirement, the state-Boston retirement board shall pay to William I. Griffiths the amount credited to him as accumulated total deductions in the annuity savings fund of the state-Boston retirement board. William I. Griffiths shall be entitled to receive indemnification for all hospital, medical, and related expenses that have been or may be incurred after the date of his retirement as a result of his injuries under chapter 41 of the General Laws.

SECTION 3. Upon the death of William I. Griffiths, if his wife survives him, the state-Boston retirement board shall pay to her, so long as she remains unmarried, an annuity in the amount of $\frac{3}{4}$ of the amount of the pension payable to him, per month, at the time of his death. If his surviving wife remarries, the city of Boston shall pay to her, in lieu of the aforesaid annuity, an annuity of \$550 per month. In the event that William I. Griffiths' wife does not survive him, the city of Boston shall pay an annual amount equal to $\frac{3}{4}$ of the amount

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of the pension payable to him at the time of his death for the benefit of the children of William I. Griffiths as long as any such child is either under 18 years of age or totally or mentally incapacitated from working.

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

Approved September 7, 2005.

Chapter 85. AN ACT RELATIVE TO THE BOARD OF PUBLIC WORKS OF THE TOWN OF NORFOLK.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 101 of the acts of 2004 is hereby amended by inserting after the fourth sentence the following 3 sentences:- In the event of a vacancy on the interim board of public works caused by the death or resignation of either of the 2 senior water commissioners, the remaining members shall give written notice thereof, within 1 month of the vacancy, to the board of selectmen who, with the remaining members of the board, shall, after 1 week's notice, fill the vacancy by a roll call vote. The board of selectmen shall fill the vacancy, if the board of public works fails to timely give the notice as prescribed herein. A majority of the votes of the officers entitled to vote shall be necessary to fill the vacancy.

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

Approved September 9, 2005.

Chapter 86. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF MILLIS.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Millis, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section II-2 and inserting in place thereof the following section:-

Section II-2. There shall be a spring annual town meeting convened during the period of March through June at a time established in the by-laws of the town. There shall be a fall annual town meeting convened during the last 4 calendar months of the calendar year at a time established by the by-laws of the town.

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

Approved September 9, 2005.

Chapter 87. AN ACT AUTHORIZING THE TOWN OF OXFORD 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 Oxford may grant an additional license for the sale of all alcoholic beverage to be drunk on the premises to Joe's Diner, Inc. d/b/a Oxford's, pursuant to 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 person, organization, corporation or location.

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

Approved September 9, 2005.

Chapter 88. 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:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Dracut may grant an additional license for the sale of all alcoholic beverage not to be drunk on the premises to Evan Themeles d/b/a Broadway Convenience Store under section 15 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 person, organization, corporation or location.

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

Approved September 9, 2005.

Chapter 89. AN ACT ESTABLISHING THE WESTFORD TOWN CENTER SEWER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, there shall be a sewer district in the town of Westford called the Westford Town Center Sewer District. The district shall include the following town-owned land and buildings located in the town center section of the town of Westford, the town-owned land being described as: Westford Assessor's Map 26, Parcel 86 and Westford Assessor's Map 59, Parcels 18, 42, 46 and 47;

said buildings known as the Abbot and Millennium schools, the J.V. Fletcher library, the town hall, the police station, the fire station, the Roudenbush at Frost, the Roudenbush community center and the Abbot school sewage treatment facility; said land and buildings shall be served by the Abbot school sewage treatment facility. The district shall be limited to municipal use only.

SECTION 2. The board of selectmen of the town of Westford shall serve as the board of sewer commissioners and shall manage and direct the operations of the Westford Town Center Sewer District and shall have all the powers and perform the duties of sewer commissioners as set forth in section 65 of chapter 41 of the General Laws.

SECTION 3. The district, acting by and through its board of sewer commissioners, may take by eminent domain under chapter 79 or chapter 80A of the General Laws, or acquire by lease, purchase or otherwise, and hold land, or any portion thereof, within the town of Westford and not already appropriated for public purposes; and for those purposes may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collection, storing, holding, processing, purifying and disposing of effluent and for conveying the same to any part of the district. The district may construct and maintain on the lands acquired and held under this act proper tanks, pumping plants, buildings, processing plants, fixtures and other structures including also the establishment and maintenance of a collection system and treatment facility, and may make excavations, procure and operate machinery and provide such other means and appliances, and do other things necessary for the establishment and maintenance of complete and effective sewage collection and disposal system; and for that purpose may construct pipelines and establish pumping works, and may construct, lay, acquire and maintain conduits, pipes and other works under and over any land, water courses, railroad, railways and public or other ways, and along ways, in the town, in a manner as not unnecessarily to obstruct the same; and for the purpose of constructing, laying, maintaining, operating and repairing the conduits, pipes and other works, and for all proper purposes of this act, the district may dig up or raise and embank any lands, highways or other ways in a manner as to cause the least hindrance to public travel on the ways; but the manner in which all things are done upon any way shall be subject to the applicable by-laws and regulations of the town of Westford. The district may enter upon any land for the purpose of making surveys, test wells or pits and borings and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by this act.

SECTION 4. The Westford Town Center Sewer District shall share the maintenance costs associated with the Abbot school sewerage treatment facility with the school department of the town of Westford.

SECTION 5. For the purpose of paying the necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, the Westford Town Center Sewer District may, with Westford town meeting approval, borrow, in addition to amounts authorized by chapter 44 of the General Laws, sums from time to time as may be necessary, and may issue bonds or notes therefore, which shall bear on their face the words,

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Westford Town Center Sewer District Loan, Act of 2005. Each authorized issue shall constitute a separate loan, and the loans shall be payable in not more than 30 years from their dates. Indebtedness incurred under this act shall be subject to said chapter 44 pertaining to such districts.

SECTION 6. All land taken or acquired under this act shall be managed, improved and controlled by the board of sewer commissioners in a manner as they shall consider as in the best interest of the district.

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

Approved September 15, 2005.

Chapter 90. AN ACT RELATIVE TO CREDITABLE SERVICE FOR VOCATIONAL EDUCATION TEACHERS.

Be it enacted, etc., as follows:

Subsection (1) of section 4 of chapter 32 of the General Laws, as amended by section 4 of chapter 6 of the acts of 2005, is hereby further amended by inserting after paragraph (h) the following paragraph:-

(h $\frac{1}{2}$) Any member in service of the teachers' retirement system or teacher who is a member of the State-Boston retirement system, and who is or was employed as a teacher as defined by section 1 in a vocational-technical school or in a public school's vocational-technical program approved by the department of education under chapter 74 may receive creditable service for any period or periods of prior work experience in the occupational field in which the member became a vocational-technical teacher and which was required as a condition of the member's employment and licensure under regulations of the department of education. No credit shall be allowed until the member has paid into the Annuity Savings Fund of the system before any retirement allowance becomes effective for the member, in 1 sum, or in installments, upon the terms and conditions that the board prescribes, makeup payments of an amount equal to 10 per cent of the regular annual compensation of the member as of the member's most recent date of entry into membership in the teachers' retirement system or as a teacher in the State-Boston retirement system, for each year of service purchased plus buyback interest thereon. No credit shall be allowed and no payment shall be accepted under this paragraph until the member has completed 10 or more years of membership service. The creditable service allowable under this paragraph for any member shall not exceed 3 years. Members in service of a retirement system who make application for this creditable service shall be notified by the retirement board of their eligibility for such creditable service, and, if they are eligible, shall also be notified by the retirement board that they have the following options: (1) to purchase the service in a lump sum within 180 days

of the notice, or (2) to enter into an installment agreement within 180 days of the notice to pay for the service.

This bill was returned by the Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on September 15, 2005, and in concurrence by the House of Representatives on September 15, 2005, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 91. AN ACT PROVIDING TIMELY ACCESS TO EMERGENCY CONTRACEPTION.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 97B of chapter 41 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following sentence:- Each kit shall also include medically and factually accurate written information prepared by the commissioner of public health about emergency contraception.

SECTION 2. Chapter 94C of the General Laws, is hereby amended by inserting after section 19 the following section:-

Section 19A. (a) As used in this section "emergency contraception" shall, unless the context clearly requires otherwise, mean any drug approved by the federal Food and Drug Administration as a contraceptive method for use after sexual intercourse.

(b) Notwithstanding any other law, a licensed pharmacist may dispense emergency contraception in accordance with written, standardized procedures or protocols developed by an actively practicing physician registered with the commissioner to distribute or dispense a controlled substance in the course of professional practice pursuant to section 7 if such procedures or protocols are filed at the pharmacist's place of practice and with the board of registration in pharmacy before implementation.

(c) Before dispensing emergency contraception authorized under this section, a pharmacist shall complete a training program approved by the commissioner on emergency contraception, which training shall include but not be limited to proper documentation, quality assurance, and referral to additional services, including appropriate recommendation that the patient follow-up with a medical practitioner.

(d) A pharmacist dispensing emergency contraception under this section shall annually provide to the department of public health the number of times such emergency contraception is dispensed. Reports made pursuant to this section shall not identify any individual patient, shall be confidential and shall not be public records as defined by clause twenty-sixth of section 7 of chapter 4.

(e) The department of public health, board of registration in medicine, and board of registration in pharmacy shall adopt regulations to implement this section.

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SECTION 3. Section 70E of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 89, the word "and",- and by inserting after the word "foregoing", in line 99, the following words:- ; and

(o) if the patient is a female rape victim of childbearing age, to receive medically and factually accurate written information prepared by the commissioner of public health about emergency contraception; to be promptly offered emergency contraception; and to be provided with emergency contraception upon request.

SECTION 4. Said section 70E of said chapter 111, as so appearing, is hereby further amended by inserting after the eighth paragraph the following paragraph:-

Every facility shall require all persons who provide care to victims of sexual assault to be provided with medically and factually accurate written information prepared by the commissioner about emergency contraception. Every female rape victim of childbearing age who presents at a facility after a rape shall promptly be provided with medically and factually accurate written information prepared by the commissioner about emergency contraception. Facilities that provide emergency care shall promptly offer emergency contraception at the facility to each female rape victim of childbearing age, and shall initiate emergency contraception upon her request. For each facility initiating emergency contraception, the administrator, manager or other person in charge thereof shall annually report to the department of public health the number of times emergency contraception is administered to victims of rape under this section. Reports made pursuant to this section shall not identify any individual patient, shall be confidential and shall not be public records as defined by clause twenty-sixth of section 7 of chapter 4. The department of public health shall promulgate regulations to carry out this annual reporting requirement.

This bill was returned by the Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on September 15, 2005, and in concurrence by the House of Representatives on September 15, 2005, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 92. AN ACT AUTHORIZING A SURCHARGE ON VEHICULAR RENTAL TRANSACTION CONTRACTS IN THE CITY OF REVERE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the city of Revere may by ordinance impose a surcharge of not more than \$10 upon each vehicular rental transaction contract in the city. Amounts received by the city under this act shall not be considered in determining the amount of any state assistance to the city.

SECTION 2. The commissioner of revenue shall administer the surcharge imposed under section 1. Each vendor shall collect the surcharge and remit it to the department of

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revenue on a quarterly basis. All provisions of chapter 62C of the General Laws relative to assessment, collection, payment, abatement, verification and administration, including penalties and interest, shall, so far as pertinent, apply to this surcharge as though it were a tax enumerated in section 2 of said chapter 62C.

SECTION 3. The commissioner of revenue shall pay to the city on a quarterly basis all proceeds of the surcharge collected under section 2. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city shall establish and maintain a special account to be known as the Public Safety Facility Capital Expenditure Fund into which all such payments shall be deposited. The city treasurer may invest funds in the account in the manner authorized by sections 55 and 55B of chapter 44 of the General Laws, and any interest earned on the account shall be credited to and become part of the account. Amounts appropriated from the account shall be expended exclusively for the principal and interest on loan orders incurred by the city for architectural, engineering, geotechnical and design services and for the original equipping and construction of a new public safety facility for the city. When the account contains sufficient amounts for these purposes, the mayor shall so certify to the commissioner and the surcharge shall cease to be imposed.

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

This bill was returned by the Lieutenant-Governor, Acting Governor to the House of Representatives, the branch in which it originated, with her objections thereto, was passed by the House on September 15, 2005, and in concurrence by the Senate on September 15, 2005, the objections of the Lieutenant-Governor, Acting Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 93. AN ACT ESTABLISHING A VOTING PRECINCT IN THE CITY OF HAVERHILL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, precinct 1 of ward 3, of the city of Haverhill shall be 1 precinct for the purpose of forming congressional, representative, senatorial or councilor districts but shall have 2 polling places for the purposes of voting at any state or municipal elections. One such polling location shall be located at the Washington Square Elderly Housing located at 25 Washington square, to serve voters residing at 25 Washington square and shall be known as precinct 1A of ward 3 and the other polling location shall be located at the Citizen's Center located at 10 Welcome street to serve all others in precinct 1 of ward 3 and shall be known as precinct 1 of ward 3.

SECTION 2. The board of registrars and the city clerk of the city of Haverhill may take all necessary actions to assure compliance with this act including, but not limited to, assuring the accuracy of the voting lists as located at each polling location set forth in section 1.

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The board of registrars and the city clerks shall divide precinct 1 of ward 3 into sub precincts as set forth in section 1, and only the names of voters who reside in each sub precinct shall appear on the voting list for that sub precinct.

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

Approved September 22, 2005.

Chapter 94. AN ACT RELATIVE TO THE FINANCIAL CONDITIONS IN THE CHESTERFIELD-GOSHEN REGIONAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, or the regional school district agreement to the contrary, the Chesterfield-Goshen Regional School District, with the approval of the finance advisory board established by section 3, may borrow, at one time or from time to time, such sums as are approved by the regional school district committee and then by the board, but in no event in an amount in the aggregate in excess of \$600,000 to maintain and operate the regional school district while it adjusts the level of its expenses and revenues so as to achieve balanced budgets and fiscal stability. The board may limit the borrowing to an amount or amounts less than the amount or amounts approved by the regional school district committee. Bonds or notes issued under the authority of this act for operating purposes may be issued for a term of not more than 10 years and shall be backed by the full faith and credit of the regional school district. Bonds or notes issued under the authority of this act shall be eligible to be issued as qualified bonds or notes pursuant to chapter 44A of the General Laws. Indebtedness incurred under this act shall, so far as apt, be subject to the provisions of chapter 44 of the General Laws. The maturities of each issue of bonds or notes authorized under this act, including any refunding bonds, may, if approved by the regional school district officers authorized to issue and approve the bonds or notes, and by the board, be arranged so that for each issue the amounts payable in the several years for principal and interest combined are as nearly equal as is practicable in the opinion of the officers authorized to issue and approve the bonds or notes, or in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

SECTION 2. All proceeds of any loan authorized by section 1 shall be deposited in a separate fund which shall be set up on the books of the regional school district and be maintained separate and apart from all other funds and accounts of the regional school district. This fund shall be called the Chesterfield-Goshen Regional School District Financial Stability Fund, in this act called the fund. The regional school committee, with the approval of the board, may authorize disbursements from the fund for such operating purposes as the committee considers appropriate to maintain and continue regional school district operations. Funds borrowed for operating purposes may be applied, with the approval of the director of accounts in the department of revenue, in this act referred to as

the director, as general revenue for purposes of computing assessments to the member town under section 16B of chapter 71 of the General Laws. The director may establish such rules and procedures as he considers appropriate relating to disbursements from the fund and the reporting and accounting for these disbursements.

SECTION 3. There shall be in the Chesterfield-Goshen Regional School District a finance advisory board, consisting of the commissioner of revenue or his designee, the deputy commissioner of the division of local services of the department of revenue or his designee, the director of accounts in the department of revenue or his designee, the commissioner of education or his designee, and the chairman of the regional school committee or his designee. The board shall initiate and assure the implementation of appropriate initiatives to secure the financial stability of the school district, and shall continue in existence until June 30, 2008 unless the members, after consideration of the recommendation of the regional school committee if it chooses to offer one, by majority vote shall annually vote to continue the operation of the board from year to year thereafter.

Until the board ceases to exist, no appropriation, borrowing authorization or transfer shall take effect until approved by the board. As used in this act, "appropriation" means each line item in the district budget, and "transfer" means adjustments between or among line items under the district's procedures. In addition to the authority and powers conferred elsewhere in this act, and notwithstanding any general or special law, or regional school district agreement to the contrary, the board shall have the following authority:-

(a) The authority, by majority vote, to amend at any time any appropriation, borrowing authority, transfer, or other municipal spending authority. The authority to amend, under this act, shall include the power to increase or decrease an existing appropriation, borrowing authorization, transfer or spending authority; the authority to eliminate an existing appropriation, borrowing authorization, transfer or spending authority; and the power to create an appropriation, transfer or spending authority. In exercising its authority under this clause, the board may act with respect to district spending purposes that are not the subject of separately identified appropriations.

(b) Notwithstanding section 16B of chapter 71 of the General Laws or any other general or special law, if there is no annual budget lawfully established for a fiscal year by the first day of that fiscal year, the authority, by majority vote, to establish a budget for that fiscal year that it deems appropriate and to amend, as provided for above, these appropriations during the fiscal year.

(c) The authority, by majority vote, to encumber or impound, at any time, any unexpended or unencumbered appropriation or spending authority of any kind notwithstanding the prior approval of the board of such appropriation or spending authority. To the extent that funds previously encumbered or impounded remain encumbered or impounded at the conclusion of the fiscal year, these amounts shall revert to the district's excess and deficiency account.

(d) In addition and without limitation of the other authority in this section, the independent authority, by majority vote, to establish, set, raise or lower any fee or charge, for

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any service or other district activity, otherwise within the authority of the district to establish, set, raise or lower. No such fee or charge shall be established, set, raised or lowered without written notice to the school committee and superintendent at least 45 days before the effective date of the action.

Action by the board, under authority of this act, shall in all respects constitute valid and lawful action by the regional school district for purposes of chapters 44, 70 and 71 of the General Laws and for all school finance and other matters.

In each year during which the board continues in existence, the superintendent shall, at the same time as the annual budget is submitted to the school committee, provide to the board and to the director a copy of the proposed annual budget together with a supporting revenue and expenditure statement in such detail as the board may prescribe. The board shall review this budgetary information and may issue a report of its findings.

In order to promote and ensure the fiscal stability of the Chesterfield-Goshen Regional School District, the board may also require the filing of a detailed annual work plan by each district official with the power to make contracts or incur liabilities on behalf of the district which shall be approved by the superintendent, setting forth certain actions which may be implemented by each such official to ensure greater efficiency in the delivery of services by the district.

Each work plan shall be in such detail as the board may prescribe, and may include, but not be limited to, the following: - (1) a plan for improved financial and spending controls; (2) budget guidelines and objectives for the fiscal year; (3) a professional and nonprofessional staffing plan; (4) a plan for other proposed savings to be implemented. Any such plan submitted by a district official shall be approved by the school committee prior to submission to the board. During the course of each fiscal year in which the board is in existence, the board may require that status reports be filed with the board by these district officials on a quarterly basis.

The board shall have full authority to waive any reporting or filing requirements contained in this section.

The board may prepare reports of its findings and review and issue such recommendations for further action to the superintendent and regional school district committee.

Members of the board who are employees or officers of the commonwealth or the regional school district shall serve without compensation.

SECTION 4. The regional school district business manager, or other official with responsibility for accounting matters, shall have the powers and duties vested in this office by general or special law, and in addition, the powers and duties provided in this act. To the extent not inconsistent with this act, the office of the regional school district business manager shall also have the powers and duties provided by the regional school agreement.

The regional school district business manager shall, in addition to his other duties, provide, upon majority vote and at the written request of the finance advisory board, the regional school district committee or superintendent, within a reasonable time period from

such request, an oral or written assessment, or both, as the committee may request, of the current and future financial impact of the cost of any proposed expenditure, lease or contract agreement for a term including more than 1 fiscal year, collective bargaining agreement or borrowing authorization, particularly, but not limited to, its effect on the continuous provision of the existing level of district services. To the extent reasonable, this assessment shall include an analysis or other information of a financial nature that is specifically requested by the finance advisory board, superintendent or committee. The assessment and analysis shall be provided by the regional school district business manager as his professional opinion.

SECTION 5. (a) Notwithstanding any general or special law or the regional school district agreement to the contrary, the Chesterfield-Goshen Regional School District shall establish a special reserve fund for extraordinary and unforeseen expenditures, which fund shall be called the Supplemental Reserve Fund to Ensure Fiscal Stability. This fund shall be separate and in addition to any amounts appropriated under section 16G 1/2 of chapter 71 of the General Laws.

(b) Commencing with fiscal year 2007 and for all subsequent fiscal years, before the date when assessments to the member towns are computed, the district shall include a supplemental reserve fund sum in the budget for the fiscal year, as determined under this act.

(c) The supplemental reserve fund sum for fiscal year 2007 shall be an amount equal to 0.25 per cent of the gross amount of the regional district budget for the prior fiscal years as determined by the director; the supplemental reserve fund sum for fiscal year 2008 shall be an amount equal to 0.50 per cent of the gross amount of the regional district budget for the prior fiscal year as determined by the director; the supplemental reserve fund sum for fiscal year 2009 shall be an amount equal to 0.75 per cent of the gross amount of the regional district budget for the prior fiscal year as determined by the director; the supplemental reserve fund sum for fiscal year 2010 shall be an amount equal to 1 per cent of the gross amount of the regional district budget for the prior fiscal year as determined by the director; and the supplemental reserve fund sum for fiscal year 2011 and each subsequent fiscal year shall be an amount equal to 1.5 per cent of the gross amount of the regional district budget for the prior fiscal year as determined by the director.

(d) In each year the amount required to be included in the budget for the supplemental reserve fund may be reduced by the amount, if any, remaining in the supplemental reserve fund established for the preceding year after all expenditures have been made from it as authorized in this act, and this remaining amount shall be retained in the supplemental reserve fund provided for the then current fiscal year.

(e) Transfers or expenditures may be authorized from the supplemental reserve fund of any fiscal year during that fiscal year only, and then only by the regional school district committee, and if the board continues in existence at the time of this transfer or expenditure, only with the approval of the board. Each such transfer or expenditure request by the superintendent shall be accompanied by a written statement detailing the amount and the reason

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for the transfer or expenditure. Except for such transfers or expenditures as are authorized in this act, there shall be no other transfers or reductions in the amount of this fund.

(f) All amounts required by this act to be included in the district budget for each fiscal year shall be included in the calculation of assessments to the member towns by the regional school district business manager. While the board remains in existence, the board, to the extent it considers it appropriate to effectuate the purposes of this act, may waive in part or in whole the requirements of this section.

SECTION 6. Notwithstanding any general or special law or provision of the district agreement to the contrary, the Chesterfield-Goshen Regional School District may, with the approval of the board, capitalize a sum not to exceed \$150,000, the amortization amount, and fund the amortization amount in equal or declining annual installments over a period starting with fiscal year 2007 and not exceeding 4 years. The annual amortization amount shall be included in the assessments to the member towns as prescribed in section 16B of chapter 71 of the General Laws.

SECTION 7. No official of the Chesterfield-Goshen Regional School District, except in the case of an emergency involving the health and safety of persons or property, shall knowingly expend or incur liabilities in any fiscal year in excess of that official's spending authority established by a budget line item or appropriation duly made under the law, nor commit the regional school district, nor cause it to be committed, to any obligation for the future payment of money in excess of that appropriation, with the exception of court judgments. Any official who intentionally violates this section shall be personally liable to the regional school district for any amounts expended in excess of the appropriation to the extent that the regional school district does not recover these amounts from the person or persons to whom the amounts were paid. The superior court or a single justice of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the regional school district under this act and to order relief that the court finds appropriate to prevent further violations of this section. Any violation of this section shall be deemed sufficient cause for removal.

SECTION 8. For the purposes of this act, the word "official" shall mean a regional school district administrator or other employee, permanent, temporary or acting, including the superintendent of schools, and all members of the school committee, and the word "emergency" shall mean a major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an unexpected and immediate threat to the health and safety of persons or property.

SECTION 9. In any year during which bonds or notes authorized under this act remain outstanding, the commissioner of revenue may withhold the local aid payment to be made to the district on December 31 until an audit report for the preceding fiscal year has been received and accepted by the commissioner. The audit report shall be prepared by a certified public accountant in accordance with generally accepted auditing standards and shall include accompanying financial statements. In any year during which bonds or notes authorized under this act remain outstanding, the regional school district shall submit to the

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commissioner quarterly reports presenting a budget to actual comparison of revenues and expenditures. The written reports shall be submitted within 30 days after the conclusion of each fiscal quarter and shall be in such form and include such information and detail as the commissioner may prescribe.

In any year during which bonds or notes authorized by this act remain outstanding, the regional school district shall not issue any bond, note or other form of indebtedness without written notification to, and the approval of, the commissioner.

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

Approved September 23, 2005.

Chapter 95. AN ACT AMENDING THE CHARTER OF THE CITY OF CHICOPEE.

Be it enacted, etc., as follows:

SECTION 1. Section 49 of chapter 239 of the acts of 1897 is hereby amended by inserting after the word "schools", in line 3, the following words:- , city solicitor.

SECTION 2. Section 52 of said chapter 239 is hereby amended by inserting after the word "act", in line 2, the following words:- excluding the superintendent of schools, the city solicitor and city engineer,.

Approved September 23, 2005.

Chapter 96. AN ACT PROVIDING A TEMPORARY SEWER EASEMENT IN THE TOWN OF ANDOVER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 30B or chapter 149 of the General Laws, or any other general or special law to the contrary, the town of Andover may: (1) grant a temporary construction easement to Yvon Cormier Construction Corp., a Massachusetts corporation, for the purpose of constructing an underground sewer line in Lowell street and North Main street in the town of Andover and through the William M. Wood Memorial Park shown as Parcel 6 on Andover Assessors Map 53; and (2) temporarily change the use of the William M. Wood Memorial Park to allow construction of an underground sewer line through the park by Yvon Cormier Construction Corp., but the town shall require Yvon Cormier Construction Corp. to restore the parcel to the condition it was in before the sewer installation. Upon completion of the sewer line, to the satisfaction of the department of public works of the town of Andover, Yvon Cormier Construction Corp. shall convey all right,

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title and ownership of the sewer line to the town of Andover. No town funds shall be used for the construction of the underground sewer line, and the town shall maintain the sewer line.

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

Approved September 23, 2005.

Chapter 97. AN ACT PROVIDING FOR AN AFFORDABLE HOUSING TRUST FUND IN THE TOWN OF HAMILTON.

Be it enacted, etc., as follows:

SECTION 1. The town of Hamilton 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, the Hamilton Housing Authority or a community development corporation, non-profit housing development corporation or similar entity established under the laws of the commonwealth. Expenditures from the fund shall be authorized by a majority vote of the board of selectmen in consultation with the Hamilton Housing Partnership.

SECTION 2. All the expenditures from the Affordable Housing Trust Fund shall be used for low or moderate income housing as defined in section 20 of chapter 40B of the General Laws. The fund may be used to:-

- (a) purchase or improve land for low or moderate income housing;
- (b) acquire, rehabilitate or redevelop existing dwelling units for occupancy by low or moderate income homebuyers or tenants;
- (c) acquire, redevelop or convert existing nonresidential structures for low or moderate income housing;
- (d) develop and construct new dwelling units for purchase or rental by low and moderate income housing purchasers or tenants;
- (e) purchase rights of first refusal to acquire existing dwelling units for sale or rental to low or moderate income households; and
- (f) provide grants, low-interest loans or deferred payment loans to assist low or moderate income homebuyers to purchase a home in the town of Hamilton.

Expenditures shall follow an allocation plan submitted by the board of selectmen annually to the town of Hamilton at the annual town meeting and approved by the town meeting.

The allocation plan may be amended by the town meeting at a special town meeting upon a favorable recommendation from the board of selectmen. The board of selectmen may request the advice of the Hamilton Housing Partnership, the planning board and others in developing any allocation plan. The allocation plan shall be a general plan of how funds will be expended during the next fiscal year. It shall also include a report on how funds were

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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 allocation plan and approved by a majority vote of the board of selectmen.

SECTION 3. As a means of providing available assets for the Affordable Housing Trust Fund, all monies received by the town from the following sources shall be paid over to and become a part of the fund for the purposes set forth in this act:-

(a) cash payments from developers under an affordable housing zoning by-law, if the town votes to adopt one;

(b) funds authorized by town meeting for community housing purposes under chapter 44B of the General Laws, if the town votes to accept sections 3 to 7, inclusive, of said chapter 44B;

(c) gifts, grants, donations, contributions or other cash payments made to the town for the purpose of providing low or moderate income housing; and

(d) any other source of revenue determined by town meeting, as allowed by law.

SECTION 4. Real property interests purchased or conveyed by the town under this act shall be subject to section 16 of chapter 30B of the General Laws, unless exempt under section 1 of said chapter 30B or under any other laws of the commonwealth. The board of selectmen may convey, through sale, lease or transfer, real property purchased under this act provided that an affordable housing use restriction under sections 26, 31, 32 and 33 of chapter 184 of the General Laws is executed with or on behalf of the purchaser or owner of the property and recorded at the registry of deeds. The affordable housing use restriction shall be perpetual or for the maximum term allowed by law, unless a lesser term is authorized in the allocation plan approved by town meeting. Real property conveyed through sale, lease or transfer to a for profit or nonprofit developer to provide low or moderate income rental housing shall be subject to an affordable housing regulatory agreement executed with or on behalf of the developer and the department of housing and community development or any successor agencies thereto.

SECTION 5. The town treasurer shall be the custodian of the Affordable Housing Trust 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 September 23, 2005.

Chapter 98. AN ACT AUTHORIZING THE RETIREMENT OF ZENAIDA FLORES OF THE BOSTON POLICE DEPARTMENT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or rule or regulation to the

contrary, and in order to promote the public good, the state-Boston retirement board shall retire police officer Zenaida Flores of the police department in the city of Boston, who, as a result of injuries sustained while in the performance of her duties on August 27, 2002 is unable to perform the essential duties of her job and is likely to be permanently unable to do so.

SECTION 2. The annual amount of pension payable to Zenaida Flores shall be equal to the regular annual rate of compensation which would have been paid had she continued in service as a police officer of the police department in the city of Boston at the grade held by her at the time of her retirement.

Such retirement shall become effective commencing on the date immediately following the final day for which she received regular compensation for such employment. Upon such retirement, the state-Boston retirement board shall forthwith pay to Zenaida Flores the amount credited to her as accumulated total deductions in the annuity savings fund of the state-Boston retirement board. Zenaida Flores shall be entitled to receive indemnification for all hospital, medical and related expenses that have been or may be incurred after the date of her retirement as a result of said injuries, pursuant to chapter 41 of the General Laws.

SECTION 3. Upon the death of Zenaida Flores, if her husband survives her, the state-Boston retirement board shall pay to him, so long as he remains unmarried, an annuity in the amount of three-fourths of the amount of the pension payable to her, per month, at the time of her death. If her husband remarries, the city of Boston shall pay, in lieu of this annuity to him, an annuity of \$550 per month to him. In the event that Zenaida Flores' husband does not survive her, then the city of Boston shall pay an annual amount equal to three-fourths of the amount of the pension payable to her at the time of her death for the benefit of the children of Zenaida Flores for such time as any such child is either under 18 years of age or totally or mentally incapacitated from working.

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

Approved September 23, 2005.

Chapter 99. AN ACT RELATIVE TO LIVING ORGAN DONATION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 149 of the General Laws is hereby amended by inserting after section 33D the following section:-

Section 33E. (a) An employee of the commonwealth or of a county, or of a city or town that accepts this section, may take a leave of absence of not more than 30 days in a calendar year to serve as an organ donor, without loss of or reduction in pay, without loss of leave to which he is otherwise entitled and without loss of credit for time or service.

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(b) If the necessity for leave under this section is foreseeable, the employee shall provide the employer with not less than 7 days' notice before the leave is to begin. If the necessity for leave is not foreseeable, the employee shall provide such notice as is practicable.

(c) An employer may require that a request for leave under this section be supported by a certification issued at such time and in such manner as the attorney general may by regulation require.

(d) The attorney general shall enforce this section, and may obtain injunctive or declaratory relief for this purpose. Violation of this shall be subject to the second paragraph of section 150 and to section 180.

SECTION 2. Section 150 of said chapter 149, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "section", in line 20, the following figure:- 33E,.

Approved September 29, 2005.

Chapter 100. AN ACT ESTABLISHING A SICK LEAVE BANK FOR EARLE BERCIER, 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 or rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Earle Bercier, 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 Earle Bercier. Whenever Earle Bercier terminates employment with the department or requests to dissolve the sick leave bank, the balance of the sick leave time shall be transferred to the extended illness leave bank.

Approved September 29, 2005.

Chapter 101. AN ACT ESTABLISHING A SICK LEAVE BANK FOR KATHLEEN A. SAMMATARO, AN EMPLOYEE OF THE TRIAL COURT.

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 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 Kathleen A. Sammataro, an employee of the probation department of the Chicopee division of the district court department. 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 Kathleen A. Sammataro. Whenever Kathleen A. Sammataro terminates employment with the trial court or requests to dissolve the sick leave bank established by this act, the balance of the sick leave time shall be transferred to the trial court paid leave bank.

Approved September 29, 2005.

Chapter 102. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SANDRA SPIROS, 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 or rule or regulation to the contrary, the trial court shall establish a sick leave bank for Sandra Spiros, an employee of the Suffolk division of the superior 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 Sandra Spiros. Whenever Sandra Spiros terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of the sick leave time shall be transferred to the trial court paid leave bank.

Approved September 29, 2005.

Chapter 103. AN ACT ESTABLISHING A TRAFFIC COMMISSION IN THE CITY OF WOBURN.

Be it enacted, etc., as follows:

SECTION 1. There shall be in the city of Woburn, a traffic commission to consist of 9 commissioners, 1 of whom shall be the chief of police or his designee, 1 of whom shall be the superintendent of public works or his designee, 1 of whom shall be the fire chief or his designee, 1 of whom shall be the city engineer or his designee, 1 of whom shall be the planning director or his designee, 2 of whom shall be aldermen selected by the city council president, 1 of whom shall be a resident member to be appointed by the city council, and 1 of whom shall be a member of the business community to be appointed by the city council. The city clerk or his designee shall serve as administrative clerk of the traffic commission. The members of the commission shall serve without compensation.

SECTION 2. All expenses incurred for the purposes of this act shall be paid by the city. All statutes and ordinances applicable generally to the departments of the city shall apply to the commission.

SECTION 3. When the traffic commission is first constituted, the term of the resident member shall be for 1 year; the term of the business member shall be 2 years. Any subsequent appointments shall be for a term of 2 years, except that an appointment to fill a vacancy shall be for the unexpired term of the member who is being replaced. The 2 aldermen shall be selected by the city council president as soon after organization of the city council as possible.

SECTION 4. The traffic commission shall have exclusive authority, except as otherwise provided in this act, to adopt, amend, alter and repeal rules and regulations by a majority vote, not inconsistent with the General Laws or this act, relative to its own proceedings, vehicular street traffic, pedestrian traffic, and parking in the city and to the movement, stopping or standing of vehicles on, and their exclusion from, all or any streets, ways, highways, roads or parkways, under control of the city, including rules and regulations designating any way or part thereof under the control of the city as a through way under section 9 of chapter 89 of the General Laws, and may prescribe penalties, not exceeding the maximum established by the General Laws, for the violation of any rule or regulation adopted under this act. No such rule or regulation, except such special rules and regulations as are declared by vote of the commission to be urgently required by considerations of public safety or convenience or such as are of a temporary nature and are to be effective for a period of not more than 30 days, shall take effect until published for 2 successive weeks in 1 or more newspapers of general circulation in the city. The commission shall have power to erect, make and maintain or cause to be erected, made or maintained, traffic and parking signs, signals, markings and other devices for the control of such traffic, pedestrian movement, and parking in the city and for informing and warning the public as to rules and regulations adopted under this act, subject, however to sections 2 of chapter 85 and to sections 8 and 9 of chapter 89 of the General Laws. Nothing in this act shall authorize the

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commission to adopt any rule or regulation that would exclude the Massachusetts Bay Transportation Authority from any way or party thereof in which it has a route or modify or limit any power or authority of the department of conservation and recreation, the state department of public works, or the state department of telecommunications and energy or modify or limit any power now vested in the mayor, city council or heads of departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

SECTION 5. All existing ordinances and regulations relating to the control of vehicular traffic and parking shall remain in full force and effect until superseded by rules and regulations adopted by the traffic commission under this act, and the adoption of these rules and regulations by the commission shall not affect any act done or right accrued or penalty incurred or any suit, prosecution or proceeding pending, at the time of said adoption.

SECTION 6. All rules and regulations of the traffic commission will be established by the traffic commission, subject to approval, change, or amendment by the city council.

Approved September 29, 2005.

Chapter 104. AN ACT ELIMINATING MAINTENANCE AND CAPITAL INVESTMENT FUNDS IN THE CITY OF NEWBURYPORT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the balances remaining in the 4 special accounts created by chapter 85 of the acts of 2001 are hereby transferred to the city of Newburyport's Capital Improvements Stabilization Fund.

SECTION 2. Chapter 85 of the acts of 2001 is hereby repealed.

Approved September 29, 2005.

Chapter 105. AN ACT PROVIDING A CHARTER FOR THE CITY OF MELROSE.

Be it enacted, etc., as follows:

SECTION 1. The following shall be the charter for the city of Melrose:

ARTICLE 1

INCORPORATION; SHORT TITLE; DEFINITIONS

SECTION 1-1: INCORPORATION

The inhabitants of the city of Melrose, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "city of Melrose".

SECTION 1-2: SHORT TITLE

This act shall be known and may be cited as the city of Melrose Charter.

SECTION 1-3: DIVISION OF POWERS

The administration of the fiscal, prudential and municipal affairs of Melrose, with the government thereof, shall be vested in an executive branch headed by a mayor and a legislative branch consisting of a board of aldermen. The legislative branch shall never exercise any executive power, and the executive branch shall never exercise any legislative power.

SECTION 1-4: POWERS OF THE CITY

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or General Laws of the commonwealth, it is the intention and the purpose of the voters of Melrose through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated herein.

SECTION 1-5: CONSTRUCTION

The powers of the city of Melrose under this charter are to be construed liberally in favor of the city, and the specific mention of any particular power is not intended to limit the general powers of the city as stated in section 1-4.

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the constitution or general laws of the commonwealth, Melrose may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the commonwealth or any of its agencies or political subdivisions, or with the United States government or any of its agencies.

SECTION 1-7: DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

- (1) "Charter", this charter and any adopted amendments to it.
- (2) "Emergency", a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.
- (3) "Full board of aldermen", "Full multiple member body", the entire authorized complement of the board of aldermen, school committee or other multiple member body notwithstanding any vacancy which might exist.
- (4) "general laws", laws enacted which apply alike to all cities and towns, to all cities, or to a class of 2 or more cities, or cities and towns of which Melrose is a member.
- (5) "General Laws", the General Laws of the commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

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(6) "Initiative measure", a measure proposed by the voters through the initiative process provided under this charter.

(7) "Local newspaper", a newspaper of general circulation within Melrose, with either a weekly or daily circulation.

(8) "Majority vote", when used in connection with a meeting of a multiple member body shall mean a majority of those present and voting, unless another provision is made by ordinance, by law, or by its own rules.

(9) "Measure", any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted, by the board of aldermen or the school committee.

(10) "Multiple member body", any board, commission, committee, sub-committee or other body consisting of 2 or more persons whether elected, appointed or otherwise constituted, but not including the board of aldermen or the school committee.

(11) "Organization or reorganization plan", a plan submitted by the mayor to the board of aldermen which proposes a change in the organization of the administrative structure of the city government, or a change in the way in which a municipal service, or services are delivered.

(12) "Quorum", a majority of all members of a multiple member body unless some other number is required by law or by ordinance.

(13) "Referendum measure", a measure adopted by the board of aldermen or the school committee that is protested under the referendum procedures of this charter.

(14) "City", the city of Melrose.

(15) "City agency", any multiple member body, any department, division, or office of the city of Melrose.

(16) "City bulletin boards", the bulletin board in the city hall on which the city clerk posts official notices of meetings and upon which other official city notices are posted, and the bulletin boards at any other locations as may be designated city bulletin boards by the board of aldermen.

(17) "City officer", when used without further qualification or description, shall mean a person having charge of an office or department of the city who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the city.

(18) "Voters", registered voters of the city of Melrose.

ARTICLE 2

LEGISLATIVE BRANCH

SECTION 2-1: COMPOSITION, TERM OF OFFICE

(a) *Composition* - There shall be a board of aldermen of 11 members which shall exercise the legislative powers of the city. Four of these members, to be known as aldermen-at-large, shall be nominated and elected by and from the voters at large. Seven of these members, to be known as ward aldermen, shall be nominated and elected by and from the voters of each ward, 1 such ward alderman to be elected from each of the 7 wards into which the city is divided under section 7-5.

(b) *Term of Office* - The term of office for all aldermen shall be for 2 years each, beginning on the first Monday after the first Tuesday in January in the year following their election, and until their successors have been qualified.

(c) *Eligibility* - Any voter shall be eligible to hold the office of alderman-at-large. A ward alderman shall at the time of election be a voter of the ward from which elected, but if any ward alderman shall during the first 12 months of the term of office remove to another ward in the city, the office shall be deemed vacant and the balance of the unexpired term shall be filled in the manner provided in section 2-11. If the removal occurs after the first 12 months of the term of office such ward alderman may continue to serve for the balance of the term for which elected. If an alderman-at-large or a ward alderman removes from the city during the alderman's term, the office shall immediately be deemed vacant and filled in the manner provided in section 2-11.

SECTION 2-2: PRESIDENT

(a) *Election and Term* - As soon as practicable after the aldermen-elect have been qualified following each biennial election, as provided in section 9-11, the members of the board of aldermen shall elect from among its members a president who shall serve for 1 year. The method of election of the president shall be prescribed within the rules of the board of aldermen.

(b) *Powers and Duties* - The president shall preside at all meetings of the board of aldermen, regulate its proceedings and shall decide all questions of order. The president shall appoint all members of all committees of the board of aldermen, whether special or standing. The president shall have the same powers to vote upon all measures coming before the board of aldermen as any other member of the board of aldermen. The president shall perform any other duties consistent with the office that may be provided by charter, by ordinance or by other vote of the board of aldermen.

SECTION 2-3: PROHIBITIONS

(a) *Holding Other City Office or Position* - No member of the board of aldermen shall hold any other city office or city employment for which a salary or other emolument is payable from the city treasury. No former member of the board of aldermen shall hold any compensated appointed city office or appointed city employment until 1 year following the date on which the former member's service on the board of aldermen has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as a member of the board of aldermen from returning to the same office or other position of city employment held at the time the position was vacated, but no such person shall be eligible for any other municipal position until at least 1 year following the termination of service as a member of the board of aldermen.

(b) *Interference with Administration* - No board of aldermen nor any member of the board of aldermen shall give orders or directions to any officer or employee of the city appointed by the mayor, either publicly or privately.

SECTION 2-4: COMPENSATION

(a) *Compensation* - The members of the board of aldermen shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing the salary of aldermen shall be effective unless it shall have been adopted during the first 18 months of the term for which the board of aldermen is elected and unless it provides that the salary increase is to take effect upon the organization of the city government following the next municipal election.

SECTION 2-5: GENERAL POWERS

Except as otherwise provided by general law or by this charter, all powers of the city shall be vested in the board of aldermen which shall provide for their exercise and for the performance of all duties and obligations imposed upon the city by law.

SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) *Exercise of Powers* - Except as otherwise provided by general law or by this charter, the legislative powers of the board of aldermen may be exercised in a manner determined by it.

(b) *Quorum* - The presence of 6 members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter, the affirmative vote of 8 members shall be required to adopt any ordinance or appropriation order.

(c) *Rules of Procedure* - The board of aldermen shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

(i) Regular meetings of the board of aldermen shall be held at a time and place fixed by ordinance.

(ii) Special meetings of the board of aldermen shall be held at the call of the president or at the call of any 4 or more members, by written notice delivered in hand or to the place of residence of each member and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the president shall be judge, this notice shall be delivered at least 48 weekday hours in advance of the time set for such meeting. A copy of the notice to members shall immediately be posted upon the city bulletin boards.

(iii) All sessions of the board of aldermen and of every committee or subcommittee of the board shall at all times be open to the public unless another provision is made by law.

(iv) A full, accurate, up-to-date account of the proceedings of the board of aldermen shall be kept, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting. The minutes of any executive session, shall be made available as soon as their publication would not defeat the lawful purposes of the executive session.

SECTION 2-7: ACCESS TO INFORMATION

(a) *In General* - The board of aldermen may make investigations into the affairs of the city and into the conduct and performance of any city agency.

(b) *City Officers, Members of City Agencies, Employees* - The board of aldermen may require any city officer, member of a city agency or city employee to appear before it to give

any information that the board of aldermen may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of that person and within the jurisdiction of the board of aldermen.

(c) *Mayor* - The board of aldermen may require the mayor to provide specific information to it on any matter within the jurisdiction of the board of aldermen. The board of aldermen may require the mayor to appear before it, in person, to provide specific information on the conduct of any aspect of the business of the city. The mayor may bring to such meeting any assistant, department head or other city officer or employee the mayor may deem necessary to assist in responding to the questions posed by the board of aldermen.

(d) *Notice* - The board of aldermen shall give 48 hours notice to any person it may require to appear before it under the provisions of this section. The notice shall include specific questions on which the board of aldermen seeks information, and no person called to appear before the board of aldermen under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing.

SECTION 2-8: APPOINTMENTS OF THE BOARD OF ALDERMEN

(a) *City Clerk* - The board of aldermen shall elect a city clerk to serve for a term of 3 years. The city clerk shall be the keeper of vital statistics of the city, the custodian of the city seal and of all records of the city, shall administer the oath of office to all city officers, and shall issue licenses and permits as may be provided by law. The city clerk shall have the powers and duties provided that office by the General Laws of the commonwealth, the charter, ordinances or other votes of the board of aldermen.

(b) *Clerk of Committees* - The board of aldermen shall elect a clerk of committees, who may, but need not be, the city clerk, to serve at the pleasure of the board of aldermen. The clerk of committees shall perform the duties as may be provided by ordinance or by other vote of the board of aldermen.

(c) *Salary/Compensation* - The city clerk and the clerk of committees shall receive such salary or other compensation as may from time to time be provided for these offices by ordinance.

SECTION 2-9: ORDINANCES AND OTHER MEASURES

(a) *Emergency Ordinances* - No ordinance shall be passed finally on the date it is introduced, except in case of emergency involving the health or safety of the people or their property. No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to the ordinance, separately voted upon and receiving the affirmative vote of 8 or more members of the board of aldermen. Emergency ordinances shall stand repealed on the sixty-first day following their adoption, unless an earlier date is specified in the measure, or unless a second emergency measure adopted under this section is passed extending it, or unless a measure passed under this section has extended it.

(b) *Measures, In General* - The board of aldermen may pass a measure through all of its stages at any one meeting, except proposed ordinances, appropriation orders and loan authorizations, if no member of the board of aldermen shall object; but, if any single member

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objects, a vote on the measure shall be postponed to the next meeting of the board of aldermen. On the first occasion that the question of adopting any measure is put to the board of aldermen, except an emergency measure as defined in section 2-9(a), if a single member objects to the taking of a vote, the vote shall be postponed until the next regular or special meeting of the board of aldermen. This procedure shall not be used more than once for any measure notwithstanding any amendments made to the original measure.

(c) *Posting* - Every proposed ordinance, appropriation order or loan authorization, except emergency ordinances under section 2-9(a), shall be posted on the city bulletin board and made available at the office of the city clerk at least 10 days before its final passage.

SECTION 2-10: BOARD OF ALDERMEN REVIEW OF CERTAIN APPOINTMENTS

The mayor shall submit to the board of aldermen the name of each person the mayor desires to appoint to any city office as a department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The board of aldermen shall refer each name submitted to it to a standing committee of the board which shall review each candidate for appointment and may make a report, with recommendations, to the full board of aldermen not less than 7 nor more than 45 days after the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the board of aldermen, to give any information relevant to the appointment that the committee, or the board of aldermen, may require. Appointments made by the mayor shall become effective on the forty-fifth day after the date on which notice of the proposed appointment was filed with the city clerk unless approved or rejected by the board of aldermen within the 45 days.

SECTION 2-11: FILLING OF VACANCIES

(a) *Alderman-at-Large* - If a vacancy shall occur in the office of alderman-at-large during the first 12 months of the term for which aldermen are elected, the vacancy shall be filled in descending order of votes received by the candidate for the office of alderman-at-large at the preceding city election who received the highest number of votes without being elected, provided such person remains eligible and willing to serve and provided such person received votes equal to at least 30 per cent of the vote total received by the person receiving the highest number of votes for the office of alderman-at-large at that election. The city clerk shall certify this candidate to the office of alderman-at-large to serve for the balance of the then unexpired term. If a vacancy shall occur in the office of alderman-at-large during the last 12 months of the term for which aldermen-at-large are elected, the vacancy shall be filled by the person at the biennial city election who receives the highest number of votes for the office of alderman-at-large and who is not then serving as a member of the board of aldermen. This person shall immediately be certified and shall serve for the remaining 2 months of the current term in addition to the term for which the person was elected.

(b) *Ward Alderman* - If a vacancy shall occur in the office of ward alderman, it shall be filled in the same manner as provided in section 2-11(a) for the office of alderman-at-large

except that the list shall be of the candidates for the office of ward alderman in the ward in which the vacancy occurs, but if there be no candidate on such list who remains eligible and willing to serve, the next highest ranking candidate from among the candidates for election to the alderman-at-large who is a resident of the ward in which the vacancy exists shall be certified and shall serve until the next regular election provided such candidate remains a resident of the ward, is willing to serve as a ward alderman and received votes in the ward equal to at least 30 per cent of the vote total received by the person receiving the highest number of votes for the office of ward alderman at that election. The city clerk shall certify this candidate to the office of ward alderman to serve for the balance of the then unexpired term.

(c) Filling of Vacancies By Board of Aldermen - If a vacancy shall occur in the office of alderman-at-large or in that of ward alderman and there is no available candidate to fill the vacancy in the manner provided in section 2-11 (a) or (b), the vacancy shall be filled by the remaining members of the board of aldermen. Persons elected to fill a vacancy by the board of aldermen shall serve only until the next regular election at which time the vacancy shall be filled by the voters and the person chosen to fill the vacancy shall immediately be sworn and shall serve for the remainder of the unexpired term in addition to the term for which elected. Persons serving as aldermen under this section shall not be entitled to have the words "candidate for re-election" printed against their names on the election ballot.

ARTICLE 3

EXECUTIVE BRANCH

SECTION 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION; PROHIBITIONS

(a) Mayor, Qualifications - The chief executive officer of the city shall be a mayor, elected by and from the voters of the city at large. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full time to the office and shall not hold any other elective public office, nor shall the mayor be engaged in any other business, occupation or profession during the period of service as mayor.

(b) Term of Office - The term of office of the mayor shall be 4 years beginning on the first Monday after the first Tuesday in January following the biennial city election at which chosen and until a successor is qualified.

(c) Compensation - The board of aldermen shall, by ordinance, establish an annual salary for the mayor. No ordinance altering the salary of the mayor shall be effective unless it shall have been adopted in the first 18 months of the term for which aldermen are elected and it provides that the salary is to become effective in January of the year following the next biennial city election.

(d) Prohibitions - The mayor shall hold no other city office or city employment for which a salary or other emolument is payable from the city treasury. No former mayor shall hold any compensated appointed city office or city employment until 1 year following the date on which the former mayor's city service has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as

mayor from returning to the same office or other position of city employment held at the time the position was vacated, but no such person shall be eligible for any other municipal position until at least 1 year after the termination of service as mayor. This prohibition shall not apply to persons covered under the leave of absence provisions of section 37 of chapter 31 of the General Laws.

SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

The executive powers of the city shall be vested solely in the mayor and may be exercised by the mayor either personally or through the several city agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, the laws, the ordinances and other orders for the government of the city to be enforced, and shall cause a record of all official acts of the executive branch of the city government to be kept. The mayor shall exercise general supervision and direction over all city agencies, unless otherwise provided by law or by this charter. Each city agency shall furnish to the mayor, immediately upon request, any information, materials or otherwise as the mayor may request and as the needs of the office of mayor and the interest of the city may require. The mayor shall supervise, direct and be responsible for the efficient administration of all city activities and functions placed under the control of the mayor by law or by this charter. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the city and for this purpose shall have authority, consistent with law, to call together for consultation, conference and discussion at reasonable times all persons serving the city, whether elected directly by the voters, chosen by persons elected directly by the voters, or otherwise. The mayor shall be, by virtue of the office, a member of every appointed multiple member body of the city. The mayor shall have a right, as an ex officio member, to attend any meeting of any appointed multiple member body of the city, at any time, including executive sessions, to participate in the discussions, to make motions and to exercise every other right of a regular member of such body, but not including the right to vote.

SECTION 3-3: APPOINTMENTS BY THE MAYOR

The mayor shall appoint, subject to the review of such appointments by the board of aldermen under section 2-10, all city officers and department heads and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter, excepting only persons serving under the school committee, and persons serving under the board of aldermen. All appointments to multiple-member bodies shall be for terms established under section 5-1. Upon the expiration of the term of any member of a multiple member body, a successor shall be appointed in like manner. The mayor shall fill any vacancy for the remainder of the unexpired term of any member of a multiple member body. All persons classified as department heads shall, subject to the consent of the mayor, appoint, promote and discipline all assistants, subordinates and other employees of the agency for which that person is responsible. All appointments and promotions made by the mayor shall be made on the basis of merit and fitness demonstrated by examination, past performance or by other evidence of competence and suitability. Each person appointed to

fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

SECTION 3-4: REMOVAL OR SUSPENSION OF CERTAIN OFFICIALS

(a) *City Officers and Department Heads* - The mayor may, in writing, remove or suspend any city officer, or the head of any city department appointed by the mayor by filing a written statement, with the city clerk, setting forth in precise detail the specific reasons for the removal or suspension. A copy of the written statement shall be delivered in hand, or mailed by certified mail, postage prepaid, to the last known address of the city officer or department head. The city officer or department head may make a written reply by filing such a reply statement, with the city clerk, within 10 days after the date the statement of the mayor has been filed; but, this reply shall have no effect upon the removal or suspension unless the mayor shall so determine. The decision of the mayor in suspending or removing a city officer or a department head shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the mayor. The removal shall take effect 30 days after the date of filing in the office of the city clerk the notice of removal by the mayor.

(b) *Other City Employees* - Unless some other procedure is specified in a collective bargaining agreement or by civil service law, a department head may suspend or remove any assistant, subordinate or other employee of the agency for which that person is responsible. The decision of the department head to suspend or remove any assistant, subordinate or other employee shall be subject to review by the mayor. A person for whom a department head has determined a suspension or removal is appropriate may seek review of this determination by the mayor by filing a petition for review, in the office of the mayor, in writing, within 10 days following receipt of notice of this determination. The decision of the mayor shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for suspension or removal solely in the mayor. Nothing in this section shall be construed to be a bar to any other review as may be provided by law.

SECTION 3-5: TEMPORARY APPOINTMENTS TO CITY OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a city office and the needs of the city require that the office be filled, the mayor may designate the head of another city agency or a city officer or city employee or some other person to perform the duties of the office on a temporary basis until the position can be filled as otherwise provided by law or by this charter. The mayor shall file a certificate in substantially the following form, with the city clerk, whenever a person is designated under this section:

I designate (*name of person*) to perform the duties of the office of (*designate office in which vacancy exists*) on a temporary basis until the office can be filled by (*here set out the regular procedure for filling the vacancy, or when the regular officer shall return*). I certify that said person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the city of Melrose.

(signed)

Mayor

Persons serving as temporary officers under this section shall have only those powers of the office essential to the performance of the duties of the office during the period of the temporary appointment. Notwithstanding any general or special law to the contrary, no temporary appointment shall be for more than 90 days, but not more than 2 30-day extensions of a temporary appointment may be made when a permanent vacancy exists in the office.

SECTION 3-6: COMMUNICATIONS; SPECIAL MEETINGS

(a) *Communications to the Board of Aldermen* - The mayor shall, from time to time, by written communications, recommend to the board of aldermen for its consideration such measures as, in the judgment of the mayor, the needs of the city require. The mayor shall, from time to time, by written communication, keep the board of aldermen fully informed of the financial and administrative condition of the city and shall specifically indicate in these such reports any fiscal, financial or administrative problems of the city.

(b) *Special Meetings of the Board of Aldermen* - The mayor may at any time call a special meeting of the board of aldermen, for any purpose, by causing a notice of the meeting to be delivered in hand or to the place of business or residence of each member of the board of aldermen. This notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least 48 weekday hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall, immediately be posted on the city bulletin board.

SECTION 3-7: APPROVAL OF MAYOR, EXCEPTION (VETO)

Every order, ordinance, resolution or vote adopted or passed by the board of aldermen relative to the affairs of the city, except memorial resolutions, the selection of city officers by the board of aldermen and any matters relating to the internal affairs of the board of aldermen, shall be presented to the mayor for approval. If the mayor approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure, the mayor shall return the measure, with the specific reason or reasons for such disapproval attached to it, in writing, to the board of aldermen. The board of aldermen shall enter the objections of the mayor on its records, and not sooner than 10 days, nor later than 30 days from the date of its return to the board of aldermen, shall again consider the same measure. If the board of aldermen, notwithstanding the disapproval by the mayor, shall again pass the order, ordinance, resolution or vote by a 2/3 vote of the full board, it shall then be deemed in force, notwithstanding the failure of the mayor to approve it. If the mayor has neither signed a measure nor returned it to the board of aldermen within 10 days following the date it was presented to the mayor, the measure shall be deemed approved and in force.

SECTION 3-8: TEMPORARY ABSENCE OF THE MAYOR

(a) *Acting Mayor* - Whenever, by reason of sickness, absence from the city or other cause, the mayor shall be unable to perform the duties of the office, the president of the board of aldermen shall be the acting mayor.

(b) *Powers of Acting Mayor* - The acting mayor shall have only those powers of the mayor that are essential to the conduct of the business of the city in an orderly and efficient

manner and on which action may not be delayed. The acting mayor shall have no authority to make any permanent appointment or removal from city service unless the disability of the mayor shall extend beyond 60 days, nor shall an acting mayor approve or disapprove of any measure adopted by the board of aldermen unless the time within which the mayor must act would expire before the return of the mayor. During any period in which any member of the board of aldermen is serving as acting mayor, that alderman shall not vote as a member of the board of aldermen.

SECTION 3-9: DELEGATION OF AUTHORITY BY MAYOR

The mayor may authorize any subordinate officer or employee of the city to exercise any power or perform any function or any duty which is assigned by this charter, or otherwise, to the mayor, and the mayor may rescind or revoke any such authorizations previously made, but all acts performed under any such delegation of authority during a period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate his powers and duties as a school committee member, the power of appointment to city office or employment or to sign or return measures approved by the board of aldermen.

SECTION 3-10: VACANCY IN OFFICE OF MAYOR

(a) *Special Election* - If a vacancy in the office of mayor occurs during the first 2 years of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity, or otherwise, the board of aldermen shall immediately, in the manner provided in section 7-1, order a special election to be held within 90 days following the date the vacancy is created, to fill the vacancy for the balance of the then unexpired term. If a regular city election is to be held within 120 days following the date the vacancy is created a special election need not be held and the position shall be filled by vote at such regular election.

(b) *President of Aldermen To Serve As Mayor* - If a vacancy in the office of mayor occurs in the third or fourth year of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, or otherwise, the president of the board of aldermen shall become the mayor. Upon the qualification of the president of the board of aldermen as the mayor, under this section, a vacancy shall exist in that seat on the board of aldermen which shall be filled in the manner provided in section 2-11. A president serving as mayor under this subsection shall not be subject to the restrictions contained in the third sentence of section 3-1(a), nor shall that person be entitled to have the words "candidate for re-election" printed against their name on the election ballot.

(c) *Powers, Term of Office* - The mayor elected under Section 3-10(a) or (b) shall have all the powers of the mayor. A person elected under subsection (a), shall serve for the balance of the term unexpired at the time of election to the office. A person chosen under subsection (b), shall serve until the time of the next regular election at which time the person elected to fill the office for the ensuing term of office shall serve, in addition, for the balance of the then unexpired term.

**ARTICLE 4
SCHOOL DEPARTMENT**

SECTION 4-1: SCHOOL COMMITTEE

(a) *Composition, Term of Office* - There shall be a school committee which shall consist of 7 members. Six of these members shall be nominated and elected by and from the voters of the city at large. The mayor shall serve, by virtue of office, as the seventh member of the school committee with all of the same powers and duties as the members elected by the voters as school committee members.

(b) *Term of Office* - The term of office for the 6 school committee members elected by the voters shall be for 4 years, beginning on the first Monday after the first Tuesday in January in the year following their election, and until their successors have been qualified. The terms of office shall be so arranged that 3 such terms are to be filled at each biennial election.

(c) *Eligibility* - A school committee member shall at the time of election be a voter. If a school committee member removes from the city during the term for which elected, the office shall immediately be deemed vacant and filled in the manner provided in section 4-6.

SECTION 4-2: SCHOOL COMMITTEE CHAIR

(a) *Election and Term* - As soon as practicable after the school committee members-elect have been qualified following each biennial city election, as provided in section 9-11, the school committee shall organize by electing 1 of the persons elected to the office of school committee member to serve as school committee chair.

(b) *Powers and Duties* - The school committee chair shall preside at all meetings of the school committee, regulate its proceedings and decide all questions of order. The school committee chair shall appoint all members of all committees of the school committee, whether special or standing. The school committee chair shall have the same powers to vote upon all measures coming before the school committee as any other member of the school committee. The school committee chair shall perform such other duties consistent with the office as may be provided by this charter or by vote of the school committee.

SECTION 4-3: PROHIBITIONS

No member of the school committee shall hold any other city office or city employment for which a salary or other emolument is payable from the city treasury. No former member of the school committee shall hold any compensated appointed city office or city employment until 1 year following the date on which the member's service on the school committee has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as a member of the school committee from returning to the same office or other position of city employment held at the time the position was vacated, but no such person shall be eligible for any other municipal position until at least 1 year following the termination of service as a member of the school committee.

SECTION 4-4: COMPENSATION

The board of aldermen may, by ordinance, establish an annual salary for members of the school committee. No vote increasing the salary of school committee members shall be effective unless it shall have been adopted during the first 18 months of the term for which school committee members are elected and unless it provides that the salary is to take effect upon the organization of the city government following the next municipal election. Notwithstanding any general or special law to the contrary, members elected to the school committee shall not be eligible to participate in the city's group health or life insurance programs.

SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

The school committee shall have all powers which are conferred on school committees by general laws and such additional powers and duties as may be provided by the charter, by ordinance, or otherwise and not inconsistent with the grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

(1) To elect a superintendent of the schools who shall be charged with the administration of the school system, subject only to policy guidelines and directives adopted by the school committee and, upon the recommendation of the superintendent, to establish and appoint assistant or associate superintendents as provided in section 59 of chapter 71 of the General Laws.

(2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as may be deemed necessary or desirable.

(3) To adopt and to oversee the administration of an annual operating budget for the school department, subject to appropriation by the board of aldermen. The school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment. The school committee shall provide ordinary maintenance of all school buildings and grounds; unless a central municipal maintenance department which may include maintenance of school buildings and grounds is established in accordance with law. Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee to which the planning or construction of such new, remodeled or renovated school building is delegated.

SECTION 4-6: FILLING OF VACANCIES

(a) *Runner-Up to Succeed to Office* - If a vacancy shall occur in the office of school committee member, the vacancy shall be filled in descending order of votes received by the candidate for the office of school committee member at the preceding city election who received the highest number of votes without being elected, provided such person remains eligible and willing to serve and provided such person received votes equal to at least 30 per

cent of the vote total received by the person receiving the highest number of votes for the office of school committee member at that election. The city clerk shall certify this candidate to the office of school committee member to serve for the balance of the then unexpired term; but if the vacancy occurs during the first 12 months of the term for which school committee members are elected, the person so chosen shall serve only until the next biennial election at which election the remainder of the term shall be filled by the voters. If a vacancy shall occur in the office of school committee member during the last 6 months of the term for which school committee members are elected, the vacancy shall be filled by the person at the biennial city election who receives the highest number of votes for the office of school committee member and who is not then serving as a member of the school committee. This person shall immediately be certified and shall serve for the remaining 2 months of the current term in addition to the term for which the person was elected.

(b) Filling of Vacancies By Board of Aldermen and School Committee - Whenever a vacancy shall occur in the office of school committee member and there is no available candidate to fill the vacancy in the manner provided in section 4-6 (a), the president of the board of aldermen shall, within 30 days following the date of the vacancy, call a joint meeting of the board of aldermen and the school committee to act to fill the vacancy. Persons elected to fill a vacancy by the board of aldermen and school committee shall serve only until the next regular election at which time the vacancy shall be filled by the voters and the person chosen to fill the vacancy shall immediately be sworn and shall serve for the remainder of the unexpired term in addition to the term for which elected. Persons serving as school committee members under this section shall not be entitled to have the words "candidate for reelection" printed against their names on the election ballot.

ARTICLE 5

ADMINISTRATIVE ORGANIZATION

SECTION 5-1: ORGANIZATION OF CITY AGENCIES

The organization of the city into operating agencies for the provision of services and the administration of the government may be accomplished only through an administrative order filed with the board of aldermen by the mayor. No administrative order may originate with the board of aldermen. The mayor may, subject only to express prohibitions in a general law or this charter, propose to reorganize, consolidate or abolish any city agency, in whole or in part, or to establish such new city agencies as is deemed necessary, but no function assigned by this charter to a particular city agency may be discontinued or assigned to any other city agency unless this charter specifically so provides. The mayor may from time to time prepare and submit to the board of aldermen administrative orders that establish operating divisions for the orderly, efficient or convenient conduct of the business of the city. These administrative orders shall be accompanied by a message of the mayor which explains the benefits expected to ensue and advises the board of aldermen if any provision of an administrative order shall require amendments, insertions, revisions, repeal or otherwise of existing ordinances. Whenever the mayor proposes an administrative order, the board of aldermen shall hold one or more public hearings on the proposal giving notice by publication

in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than 7 nor more than 14 days following said publication. An organization or reorganization plan shall become effective at the expiration of 60 days following the date the proposal is submitted to the board of aldermen unless the board of aldermen shall, by a majority vote, within such period vote to disapprove the plan. The board of aldermen may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

SECTION 5-2: MERIT PRINCIPLE

All appointments and promotions of city officers and employees shall be made on the basis of merit and fitness demonstrated by examination, past performance or other evidence of competence and suitability.

ARTICLE 6

FINANCE AND FISCAL PROCEDURES

SECTION 6-1: FISCAL YEAR

The fiscal year of the city shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

SECTION 6-2: ANNUAL BUDGET POLICY

The mayor shall call a joint meeting of the board of aldermen and school committee before the commencement of the budget process to review the financial condition of the city, revenue and expenditure forecasts, and other relevant information prepared by the mayor in order to develop a coordinated budget. The superintendent of schools shall be present at this meeting.

SECTION 6-3: SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE

At least 45 days before the beginning of the fiscal year, the mayor shall submit to the board of aldermen a proposed operating budget for all city agencies, which shall include the school department, for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the mayor shall explain the operating budget in fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed fiscal policies of the city for the ensuing fiscal year, describe important features of the proposed operating budget and indicate any major variations from the current operating budget, fiscal policies, revenues and expenditures together with reasons for these changes. The proposed operating budget shall provide a complete fiscal plan of all city funds and activities and shall be in the form the mayor deems desirable. The school budget, as adopted by the school committee shall be submitted to the mayor at least 30 days before the submission of the proposed operating budget to the board of aldermen. The mayor shall notify the school committee of the date by which the budget of the school committee shall be submitted to the mayor. The mayor and the superintendent of schools shall coordinate the dates and times of the school committee's budget process under the laws of the commonwealth.

SECTION 6-4: ACTION ON THE OPERATING BUDGET

(a) *Public Hearing* - The board of aldermen shall publish in at least 1 newspaper of general circulation in the city a notice of the proposed operating budget as submitted by the mayor. The notice shall state (1) the times and places where copies of the entire proposed operating budget are available for inspection by the public, and (2) the date, time and place not less than 14 days after its publication, when a public hearing on the proposed operating budget will be held by the board of aldermen.

(b) *Adoption of the Budget* - The board of aldermen shall adopt the operating budget, with or without amendments, within 45 days following the date the budget is filed with the city clerk. In amending the operating budget, the board of aldermen may delete or decrease any amounts except expenditures required by law, but except on the recommendation of the mayor, the board of aldermen shall not increase any item in or the total of the proposed operating budget, unless otherwise authorized by the laws of the commonwealth. If the board of aldermen fails to take action on any item in the operating budget within 45 days after receipt of the budget, that amount shall, without any action by the board of aldermen, become a part of the appropriations for the year, and be available for the purposes specified.

SECTION 6-5: CAPITAL IMPROVEMENT PROGRAM

The mayor shall submit a capital improvement program to the board of aldermen at least 120 days before the start of each fiscal year. The capital improvement program shall include:

- (1) a clear and concise general summary of its contents;
- (2) a list of all capital improvements proposed to be undertaken during the next ensuing 5 years, with supporting information as to the need for each capital improvement;
- (3) cost estimates, methods of financing and recommended time schedules for each improvement; and,
- (4) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised by the mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

SECTION 6-6: INDEPENDENT AUDIT

The board of aldermen shall annually provide for an outside audit of the books and accounts of the city to be made by a certified public accountant, or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers. The mayor shall annually provide to the board of aldermen a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the board of aldermen. The award of a contract to audit shall be made by the board of aldermen on or before September fifteenth of each year. The clerk of committees shall coordinate the work of the individual or firm selected. The report of the audit shall be filed in final form with the board of aldermen not later than March first in the year following its award.

SECTION 6-7: EXPENDITURES IN EXCESS OF APPROPRIATIONS

Except as otherwise may be provided by law, no official of the city of Melrose shall knowingly and intentionally expend in any fiscal year any sums in excess of the appropriations duly made in accordance with law, or involve the city in any contract for the future payment of money in excess of these appropriations. It is the intention of this section that section 31 of chapter 44 of the General Laws shall be strictly enforced. Any official who violates this section shall be personally liable to the city for any amounts so expended to the extent that the city does not recover these amounts from the person to whom the sums were paid.

**ARTICLE 7
ELECTIONS**

SECTION 7-1: CITY ELECTIONS: GENERAL, PRELIMINARY FOR OFFICE OF MAYOR

The regular general city election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year. A preliminary election for the purpose of nominating candidates for mayor shall be held on the third Tuesday in September in each odd-numbered year in which a mayor is to be elected, but the city clerk may, with the approval of the board of aldermen, reschedule this election to the fourth Tuesday to avoid a conflict with any civil or religious holiday. Whenever a special election to fill a vacancy in the office of mayor is to be held, a preliminary election shall be conducted, if necessary, 28 days before the date established for the special election.

SECTION 7-2: NON-PARTISAN ELECTIONS

All elections for city offices shall be non-partisan, and election ballots shall be printed without any party mark, emblem, or other designation.

SECTION 7-3: PRELIMINARY ELECTION

(a) *Ballot Position* - The order in which names of candidates appear on the ballot shall be determined by a drawing, by lot, conducted by the city clerk which shall be open to the public.

(b) *Determination of Candidates* - The 2 persons receiving at a preliminary election the highest number of votes for nomination for mayor shall be the sole candidates for that office whose names shall be printed on the official ballots to be used at the regular general city election at which the office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for the tie vote, would entitle a person receiving the same to have his name printed on the official ballots for the election, all candidates participating in the tie vote shall have their names printed on the official ballots, even though the ballots will have a number of candidates exceeding twice the number to be elected.

(c) *Condition Making Preliminary Unnecessary* - If at the expiration of time for filing statements, the number of candidates for mayor to be voted upon at any preliminary election

is not greater than 2, then no preliminary election shall be held. The candidates whose statements have been filed with the city clerk shall be deemed to have been nominated to the office, their names shall be voted upon for the office at the succeeding general election, and the city clerk shall not print their names on the ballots to be used at the preliminary election.

SECTION 7-4: BALLOT POSITION, REGULAR CITY ELECTION

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the city clerk. The drawing shall be open to the public and conducted on or before the thirtieth day preceding the date of the election.

SECTION 7-5: WARDS

The territory of the city shall be divided into 7 wards so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded as far as possible by the center line of known streets or ways or by other well-defined limits. Each such ward shall be composed of voting precincts established in accordance with general laws. The board of aldermen shall from time to time, but at least once in each 10 years, review these wards to insure their uniformity in number of inhabitants.

SECTION 7-6: APPLICATION OF STATE GENERAL LAWS

Except as otherwise expressly provided in this charter and authorized by law, all city elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, general and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

ARTICLE 8

CITIZEN PARTICIPATION MECHANISMS

SECTION 8-1 FREE PETITION

The board of aldermen or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by 50 or more voters, and which seeks the passage of a measure. The hearing shall be held by the board of aldermen or the school committee, or, in either case, by a committee or sub-committee thereof, and the action by the board of aldermen or the school committee shall be taken not later than 6 weeks after the petition is filed with the city clerk or the school committee. Hearings on 2 or more petitions filed under this section may be held at the same time and place. The city clerk or the school committee shall mail notice of the hearing to the 10 persons whose names appear first on the petition at least 7 days before the hearing. Notice, by publication, of all such hearings shall be at public expense.

SECTION 8-2: CITIZEN INITIATIVE MEASURES

(a) *Commencement* - Initiative procedures shall be started by the filing of a proposed initiative petition with the city clerk or the secretary of the school committee. The petition shall be addressed to the board of aldermen or to the school committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least 250 voters. At least 25 signatures must be certified from each

ward. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

(b) *Referral to City Solicitor* - The city clerk or the secretary of the school committee shall immediately following receipt of a proposed petition deliver a copy of the petition to the city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, in writing, advise the board of aldermen or the school committee whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the board of aldermen or the school committee. If the opinion of the city solicitor is that the measure is not in proper form, the reply shall state the reasons for this opinion, in full. A copy of the opinion of the city solicitor shall also be mailed to the person designated as clerk of the petitioners committee.

(c) *Submission to City Clerk* - If the opinion of the city solicitor is that the petition is in a proper form, the city clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city solicitor, together with the names and addresses of the first 10 voters who signed the originating petition. Within 30 days following the date the blank forms are issued by the city clerk, the petitions shall be returned and filed with the city clerk signed by at least 15 per cent of the total number of voters as of the date of the most recent city election. Signatures to an initiative petition need not all be on 1 paper, but all papers pertaining to any one measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and residence address of the person designated as filing the same. With each signature on the petition there shall also appear the street and number of the residence of each signer. Within 10 days following the filing of the petition, the board of registrars of voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent city election. The board of registrars of voters shall attach to the petition a certificate showing the results of its examination and shall return the petition to the city clerk, or the secretary of the school committee, depending on how the petition is addressed. A copy of the board of registrars of voters' certificate shall also be mailed to the person designated as clerk of the petitioners committee.

(d) *Action on Petitions* - Within 30 days following the date a petition has been returned to the city clerk or the secretary of the school committee, and after publication under subsection (f), the board of aldermen or the school committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the board of aldermen or the school committee fails to act with respect to any initiative measure which is presented to it within 30 days following the date the measure is returned to it, the measure shall be deemed to have been rejected on the thirtieth day. If an initiative measure is rejected, the city clerk or the secretary of the school committee shall promptly give notice

of that fact to the person designated as the clerk of the petitioners committee, by certified mail.

(e) *Supplementary Petitions* - Within 60 days following the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the city clerk or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to at least 5 per cent of the total number of voters as of the date of the most recent city election, and the signatures on the initial petition filed under subsection (c), and the signatures on the supplemental petition filed under this subsection, taken together, shall contain the signatures of at least 20 per cent of the total number of voters in the city. If the number of signatures to this supplemental petition is found to be sufficient by the city clerk, the board of aldermen shall call a special election to be held on a date fixed by it not less than 35 nor more than 90 days following the date of the certificate of the city clerk that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination, but if any other city election is to be held within 120 days following the date of the certificate, the board of aldermen may omit the calling of such special election and cause the question to appear on the election ballot at the approaching election for determination by the voters.

(f) *Publication* - The full text of any initiative measure which is submitted to the voters shall be published in at least 1 newspaper of general circulation in the city not less than 7 nor more than 14 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the city clerk.

(g) *Form of Question* - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form: Shall the following measure which was proposed by an initiative petition take effect?

(Here insert a fair, concise summary prepared by the petitioners, and approved by the city solicitor.)

- o YES
- o NO

(h) *Time of Taking Effect* - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

SECTION 8-3: CITIZEN REFERENDUM PROCEDURES

(a) *Petition, Effect on Final Vote* - If, within 21 days following the date on which the board of aldermen or the school committee has voted finally to approve of any measure, a petition signed by a number of voters equal to at least 12 per cent of the total number of voters as of the date of the most recent general city election and addressed to the board of aldermen or to the school committee as the case may be, protesting against the measure or any part of it is filed with the secretary of the school committee or city clerk, the effective date of such measure shall be temporarily suspended. The school committee or the board of

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aldermen shall immediately reconsider its vote on the measure or part of it, and, if the measure is not rescinded, the board of aldermen shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending this submission and determination, the effect of the measure shall continue to be suspended.

(b) *Certain Initiative Provisions to Apply* - The petition described in this section shall be termed a referendum petition and the applicable provisions of section 8-2 as they relate to the filing and certification of signatures shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" and the word "referendum" shall be deemed to replace the word "initiative". The measure or part protested against shall be null and void unless a majority of those voting on the question shall vote in favor of the measure or part protested against at the election.

SECTION 8-4: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the referendum procedures:

- (1) proceedings relating to the internal organization or operation of the board of aldermen or of the school committee;
- (2) an emergency measure adopted under the charter;
- (3) the city budget or the school committee budget as a whole;
- (4) any appropriation for the payment of the city's debt or debt service;
- (5) an appropriation of funds to implement a collective bargaining agreement;
- (6) proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- (7) any proceedings repealing or rescinding a measure or part of it which is protested by referendum procedures;
- (8) any proceedings providing for the submission or referral to the voters at an election;
- (9) memorial resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition; and
- (10) setting of property tax rate.

SECTION 8-5: SUBMISSION OF OTHER MATTERS TO VOTERS

The board of aldermen may of its own motion, and shall at the request of the school committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular city election for adoption or rejection any measure in the same manner and with the same force and effect as are hereby provided for submission by petitions of voters.

SECTION 8-6: CONFLICTING PROVISIONS

If 2 or more measures passed at the same election contain conflicting provisions, only the one receiving the greatest number of affirmative votes shall take effect.

**ARTICLE 9
GENERAL PROVISIONS**

SECTION 9-1: CHARTER CHANGES

This charter may be replaced, revised or amended in accordance with any procedure made available under the state constitution, or by statutes enacted in accordance with the state constitution.

SECTION 9-2: SEVERABILITY

The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions shall not be affected by this holding. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 9-3: SPECIFIC PROVISION TO PREVAIL

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

SECTION 9-4: RULES AND REGULATIONS

A copy of all rules and regulations adopted by any city agency shall be placed on file in the office of the city clerk and shall be available for review by any person who requests such information at any reasonable time. Unless an emergency exists as determined by the mayor, no rule or regulation adopted by any city agency shall become effective until 5 days following the date it is so filed.

SECTION 9-5: PERIODIC REVIEW OF ORDINANCES

Not later than the first day of July, at 5 year intervals, in each year ending in a 5 or in a zero, the mayor and board of aldermen shall provide for a review to be made of the ordinances of the city for the purpose of preparing a proposed revision or recodification of them, without substantive change. This review shall be made by a special committee to consist of 9 members, 4 of whom shall be appointed by the board of aldermen president and 5 of whom shall be appointed by the mayor. At least 2 of the persons appointed by the board of aldermen president shall be members of the board of aldermen and the remaining members shall be voters of the city. The special committee shall file its report with the city clerk not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the board of aldermen agenda for action before the fifteenth day of June in that year and if not so scheduled by the city clerk the matter shall come before the board of aldermen for action at its next meeting held following the fifteenth day of June, and no other business shall be in order until the report has been acted upon, by roll call vote. The review of city ordinances shall be under the supervision of the city solicitor. A revision, recodification or republication of the ordinances shall be made at 5 year intervals. Copies of the revision, recodification or republication shall be made available to the public at a cost not to exceed the actual cost of the reproduction. In each year between these reenactments, an annual supplement shall be published which shall contain all ordinances and amendments to ordinances adopted in the

preceding year.

SECTION 9-6: PERIODIC REVIEW OF CHARTER

Not later than the first day of July, at 10 year intervals, in each year ending in a 9, the mayor and board of aldermen shall provide for a review to be made of the city charter. This review shall be made by a special committee to consist of 9 members, 4 of whom shall be appointed by the board of aldermen president and 5 of whom shall be appointed by the mayor. At least 2 of the persons appointed by the board of aldermen president shall be members of the board of aldermen and the remaining members shall be voters of the city. The special committee shall file its report with the city clerk, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the board of aldermen's agenda for action before the fifteenth day of June in that year and if not so scheduled by the city clerk the matter shall come before the board of aldermen for action at its next meeting held following the fifteenth day of June, and no other business shall be in order until such report has been acted upon, by roll call vote.

SECTION 9-7: UNIFORM PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

(a) *Meetings* - All appointed multiple member bodies of the city shall meet regularly at the times and places that they by their own rules prescribe. Special meetings of any multiple member body shall be held on the call of the chairman or by one-third of the members of the body by written notice delivered in hand or to the place of residence of each member at least 48 hours in advance of the time set, which shall contain notice of the subjects to be acted upon. A copy of the notice, shall also be posted on the city bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public.

(b) *Rules and Journals* - Each appointed multiple member body shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record, and certified copies shall be placed on file in the office of the city clerk and in the Melrose Public Library.

(c) *Voting* - If requested by any member, any vote of any appointed multiple member body shall be taken by a call of the roll and the vote of each member shall be recorded in the journal, but if the vote is unanimous, only that fact need be recorded.

(d) *Quorum* - A majority of the members of an appointed multiple member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time. Unless some other provision is made by the multiple member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to adopt any vote representing an exercise of the powers of the multiple member body.

SECTION 9-8: NUMBER AND GENDER

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing

the masculine gender shall include the feminine gender.

SECTION 9-9: REFERENCES TO GENERAL LAWS

All references to General Laws contained in the charter refer to the General Laws of the commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to such chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the adoption of this charter.

SECTION 9-10: COMPUTATION OF TIME

In computing time under this charter the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included, when the period is 7 days or more, every day shall be counted.

SECTION 9-11: OATH OF OFFICE OF MAYOR, BOARD OF ALDERMEN, AND SCHOOL COMMITTEE

A mayor-elect, the board of aldermen-elect, and the school committee members-elect shall, on the first Monday after the first Tuesday in January of each even-numbered year, meet and be sworn to the faithful discharge of their duties. The oath may be administered to the mayor by the city clerk, or by a judge of a court of record, or by a justice of the peace. The oath may be administered to the members of the board of aldermen and the school committee by the mayor, after the mayor has been duly sworn, or by any of the above-named officials. A certificate that the oath or oaths have been taken shall be entered in the journal of the board of aldermen. In case of the absence of the mayor or mayor-elect, as the case may be, or any member-elect of the board of aldermen or school committee on the day the oath of office is administered, the oath may at any time thereafter be administered to that person. A certificate of each oath subsequently taken shall be entered in the journal of the board of aldermen. After the oath has been administered to the board of aldermen present, they shall organize by electing from among their number a person to serve as the president, as provided in section 2-2. If the city clerk is unable to preside during this election the board of aldermen member senior in years of service on the board of aldermen shall preside during this election. If 2 or more members are equally senior in years of service on the board of aldermen, the member senior both in years of service and age shall preside. The president shall be sworn by the city clerk, or, in the case of the absence of the city clerk, by any person qualified to take oaths or affirmations. After the oath has been administered to the school committee members present, they shall organize by electing from among their number a person to serve as the chair, as provided in section 4-2. If the city clerk is unable to preside during this election the member senior in years of service on the school committee shall preside during the election. If 2 or more members are equally senior in years of service on the school committee the member senior both in years of service and age shall preside. The chair and the vice-chair shall be sworn by the city clerk, or, in the case of the absence of the

city clerk, by any person qualified to take oaths or affirmations.

SECTION 9-12: CERTIFICATE OF ELECTION OR APPOINTMENT

Every person who is elected, including those elected by the board of aldermen, or appointed to an office of the city, shall receive a certificate of such election or appointment from the city clerk. Except as otherwise provided by law, every person who is elected, including those elected by the board of aldermen, or appointed to an office of the city before performing any act under this appointment or election, shall take and subscribe to an oath to qualify to enter upon the duties. A record of this oath shall be kept by the city clerk.

SECTION 9-13: LIMITATION ON OFFICE HOLDING

No person shall simultaneously hold more than 1 full-time city office or position of employment. Any hours worked in any part-time position shall not be the same or otherwise conflict with the hours worked in a full-time position.

SECTION 9-14: ENFORCEMENT OF CHARTER PROVISIONS

It shall be the duty of the mayor to see that the charter is faithfully followed and complied with by all city agencies and city employees. Whenever it appears to the mayor that any city agency or city employee is failing to follow any provision of this charter the mayor shall, in writing, cause notice to be given to that agency or employee directing compliance with the charter. If it shall appear to the board of aldermen that the mayor personally is not following the provisions of the charter it shall, by resolution, direct the attention of the mayor to those areas in which they believe there is a failure to comply with charter provisions. The procedures made available in chapter 231A of the General Laws may be used to determine the rights, duties, status or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.

ARTICLE 10

TRANSITIONAL PROVISIONS

SECTION 10-1: CONTINUATION OF EXISTING LAWS

All general laws, special laws, city ordinances, and rules and regulations of or pertaining to Melrose, including special acts creating regional entities and arrangements of which the city is a member, that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

SECTION 10-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All city agencies shall continue to perform their duties until re-elected, reappointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another city agency.

SECTION 10-3: TRANSFER OF RECORDS AND PROPERTY

All records, property and equipment whatsoever of any city agency, or part thereof, the powers and duties of which are assigned in whole or in part to another city agency, shall be transferred immediately to that agency.

SECTION 10-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the city before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the city, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as otherwise provided in this charter, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the city shall be rendered invalid by reason of the adoption of this charter.

SECTION 10-5: DISPOSITION OF CERTAIN SPECIAL LAWS

(a) *Certain Special Laws Recognized and Retained* - The following special acts are hereby especially recognized and retained: chapter 124 of the acts of 1936, chapter 39 of the acts of 1962, chapter 150 of the acts of 1984, and chapter 71 of the acts of 1992.

(b) *Certain Special Laws Recognized and Retained, in part* - the following special acts which amended the original city charter of 1899, relating to the organization of the city's government, are recognized and retained in part as follows: so much of chapter 144 of the acts of 1920 and chapter 78 of the acts of 1926 as relates to the establishment of the committee in charge of the care of Memorial Hall, until such time as the mayor may act pursuant to Article 5 of this charter.

SECTION 10-6: TIME OF TAKING EFFECT

This charter shall take effect upon its ratification by the voters and in accordance with the following schedule:

(1) All city officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the ratification by the voters of the home rule charter.

(2) The first election of officers under this charter shall be held on the first Tuesday following the first Monday in November 2007 for the purpose of electing a mayor, a board of aldermen and members of the school committee. A preliminary election for the purpose of nominating candidates to be elected mayor at such election shall be held on the third Tuesday of September 2007, if necessary, as provided in Article 7 of this charter. At the city election held in November 2007, the 3 school committee candidates receiving the highest number of votes shall be declared elected to a 4 year term and the 3 candidates receiving the next highest number of votes shall be declared elected to a 2 year term. Thereafter at each city election 3 candidates shall be elected to the office of school committee member for terms of 4 years each.

(3) On the first Tuesday following the first Monday in January the persons elected as mayor, board of aldermen members, and school committee members shall be sworn to the faithful performance of their duties.

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(4) Not later than 30 days following the date of the ratification of this charter by the voters the city clerk shall give to each member of the General Court who represent any part of Melrose a copy of the vote ratifying this charter.

(5) Immediately after the election at which this charter is adopted, the board of aldermen shall appoint 4 persons to be a committee to begin a review of the city ordinances for the purpose of preparing such revisions and amendments as may be needed or necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. The city clerk shall be the fifth member and chair of this committee. The committee shall submit a report, with recommendations, within 1 year following its creation and may submit interim reports with recommendations at any time. The review shall be conducted under the supervision of the city solicitor, or by special counsel appointed for that express purpose.

(6) No later than June 30, 2008, the mayor shall promulgate a series of administrative orders providing for the organization of city government into operating agencies in accordance with section 5-1.

(7) The mayor and board of aldermen shall have authority to adopt measures that clarify, confirm or extend any of the transitional provisions in order that such transition may be made in the most expeditious manner possible.

SECTION 2. Chapter 162 of the acts of 1899, chapter 235 of the acts of 1902, chapter 155 of the acts of 1906, chapter 102 and chapter 431 of the acts of 1922, chapter 407 of the acts of 1924, chapter 294 of the acts of 1929, chapter 266 of the acts of 1937, chapter 87 of the acts of 1938, chapter 85 of the acts of 1939, chapter 5 and chapter 115 of the acts of 1947, chapter 20 of the acts of 1956, chapter 682 of the acts of 1968, chapter 177 and chapter 363 of the acts of 1977, chapter 399 of the acts of 1978, chapter 163 of the acts of 1984, chapter 112 of the acts of 1995, and chapter 409 of the acts of 2004 are hereby repealed.

SECTION 3. This act shall be submitted for acceptance to the qualified voters of the city of Melrose at the biennial municipal election in the year 2005 in the form of the following question:-

"Shall an act passed by the General Court in the year 2005, entitled 'An Act providing a charter for the city of Melrose' be accepted?" If a majority of votes cast in answer to this question is in the affirmative, this act shall take effect, but not otherwise.

SECTION 4. Section 3 shall take effect upon its passage.

Approved September 29, 2005.

Chapter 106. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2005 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, 2004, and to make certain changes in law, 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 2005, the sums set forth in section 2 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, 2005. The sums in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of those items; provided, that all sums appropriated in said section 2 shall not revert and shall be available for expenditure until June 30, 2006.

SECTION 2.

JUDICIARY

Committee for Public Counsel Services.

0321-1520 \$1,000,000

DISTRICT ATTORNEYS

District Attorneys' Association.

0340-2101 \$308,628

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Bureau of State Office Buildings.

1102-3302 \$195,835

Department of Revenue.

1201-0111 \$250,000

Reserves.

1599-3384 \$3,000,000

Division of Human Resources.

1750-0300 \$525,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Transitional Assistance

4405-2000 \$785,055

Department of Public Health.

4590-0915 \$1,003,000

Department of Mental Retardation

5920-2010 \$388,908

5930-1000 \$478,247

EXECUTIVE OFFICE OF PUBLIC SAFETY

Department of Correction

8900-0001 \$6,297,616

Sheriffs

8910-0110 \$225,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are 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, 2005. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items; provided, however, that all sums appropriated in this section shall not revert and shall be available for expenditure until June 30, 2006.

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE

Office of the Secretary for Administration and Finance.

1599-4052 For a reserve to meet the fiscal year 2005 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the National Association of Government Employees, and to meet the fiscal year 2005 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such con-

	fidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2005 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$29,003,056
1599-4053	For a reserve to meet the fiscal year 2005 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the International Brotherhood of Correctional Officers, National Association of Government Employees, and to meet the fiscal year 2005 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2005 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$496,012
1599-4054	For a reserve to meet the fiscal year 2005 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Organization of State Engineers and Scientists, and to meet the fiscal year 2005 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by	

said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2005 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$4,925,256

1599-4056 For a reserve to meet the fiscal year 2005 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Essex county sheriff's department and the Essex County Correctional Officers Association, and to meet the fiscal year 2005 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2005 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$912,979

1599-4057 For a reserve to meet the fiscal year 2005 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Essex county sheriff's department and the International Brotherhood of Correctional Officers, Local R1-27, and to meet the fiscal year 2005 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits

to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2005 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$287,776

1599-4058 For a reserve to meet the fiscal year 2005 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Essex county sheriff's department and the International Brotherhood of Correctional Officers, Local R1-71, and to meet the fiscal year 2005 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2005 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$70,268

1599-4059 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Service Employees International Union, Local 509, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to

provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that \$10,000 of this appropriation shall be made available through June 30, 2007 \$16,046,607

1599-4060 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreements between the commonwealth and the Service Employees International Union, Local 888, at the North, Middle and South offices of the Berkshire county registry of deeds, between the commonwealth and the American Federation of State, County and Municipal Employees, Local 653, Council 93 at the North and South offices of the Essex county registry of deeds, between the commonwealth and the Office and Professional Employees International Union, AFL-CIO, Local 6, at the Hampden county registry of deeds, between the commonwealth and the American Federation of State, County and Municipal Employees, Local 414, Council 93, at the South office of the Middlesex county registry of deeds, between the commonwealth and the Office and Professional Employees International Union, AFL-CIO, Local 6 at the South office of the Middlesex county registry of deeds, between the commonwealth and the Service Employees International Union, AFL-CIO, Local 888 at the Suffolk Registry of Deeds, between the commonwealth and the Service Employees International Union, AFL-CIO, Local 888, at the North office of the Worcester county registry of deeds,

and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreements; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreements then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$451,385

1599-4061 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Franklin county sheriff's department and the General Teamsters, Local 404, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$173,386

1599-4062 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex

county sheriff's department and the International Brotherhood of Teamsters, Local 122, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$24,594

1599-4063 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex county sheriff's department and the National Association of Government Employees, International Brotherhood of Correctional Officers, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$1,438,238

- 1599-4064 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex county sheriff's department and the Middlesex county sheriff's Superior Officers Association, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$309,700
- 1599-4065 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Non-Uniformed Correctional Association, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan

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- which shall be filed in advance with the house and senate committees on ways and means \$1,061,782
- 1599-4066 For a reserve to meet the fiscal year 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Worcester county sheriff's department and the sheriff's office of Worcester County Superior Officers Association, and to meet the fiscal year 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$95,524
- 1599-4067 For a reserve to meet the fiscal year 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Worcester county sheriff's department and the Massachusetts Correction Officers Federated Union, and to meet the fiscal year 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insuf-

- ficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$372,814
- 1599-4068 For a reserve to meet the fiscal year 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Worcester county sheriff's department and the National Association of Government Employees, Local R1-255, and to meet the fiscal year 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$46,517
- 1599-4069 For a reserve to meet the fiscal year 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Worcester county sheriff's department and the United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO, Local 422, and to meet the fiscal year 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof

for fiscal year 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$67,744

1599-4070 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Brotherhood of Police Officers, Local Union 432 A & B, for the Amherst campus, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$173,839

1599-4071 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Brotherhood of Teamsters, Local 25, for the Lowell campus, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective

bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$74,989

1599-4072 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Brotherhood of Teamsters, Local 25, for the Boston campus, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$52,562

1599-4073 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Brotherhood of Police Officers, Local 399, for the Dartmouth campus, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by

said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$66,748

1599-4074 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Board of Higher Education and the Association of Professional Administrators, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$2,065,621

1599-4075 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff's department and the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local RN, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits

necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$12,939

1599-4076 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff's department and the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Locals 3967/3643, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$133,510

1599-4077 For a reserve to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits authorized by

the collective bargaining agreement between the Suffolk county sheriff's department and the National Association of Government Employees, Local 298, and to meet the fiscal years 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$254,410

1599-4078 For a reserve to meet the fiscal year 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Bristol county sheriff's department and the Massachusetts Correction Officers Federated Union, and to meet the fiscal year 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$341,608

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- 1599-4079 For a reserve to meet the fiscal year 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Office and Professional Employees International Union, Local 6, AFL-CIO at the Middlesex North registry of deeds, and to meet the fiscal year 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover the positions; and provided further, that the secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2006 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$54,463
- 1599-4081 For a reserve to meet the costs in fiscal years 2005 and 2006 of salary increases, benefit adjustments and other employee economic benefits authorized for employees of the supreme judicial court, the appeals court and the trial court that are covered by the collective bargaining agreements between the trial court of the commonwealth and the Office and Professional Employees International Union Local 6 (AFL-CIO), professional and clerical units; provided, that the secretary may make allocations from this item to meet the costs of salary adjustments and other economic benefits to personnel of the trial court employed in confidential positions who would otherwise be covered by said agreements in effect for fiscal year 2005 and to meet the costs of providing equal salary adjustments and other economic benefits to employees who are not otherwise classified in any such collective bargaining unit of the trial court, the mental health legal advisors committee, the board of bar examiners and the commission on judicial conduct; provided further, that the secretary of administration and finance may transfer from the

sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2005 and 2006 such adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$12,774,988

1599-4123 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 (2 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; the 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 the payments shall fund the fiscal year 2003 payments associated with salary adjustments and other economic items provided for in the collective bargaining agreements; provided further, that, not later than 70 days from the effective date of this act, employees covered by the terms

of the collective bargaining agreements in this item shall be paid a lump sum amount equal to the difference between: (a) the salary specified in the relevant agreement; and (b) the salary each received for the period from July 7, 2002 through July 5, 2003; provided further, that employees covered by the collective bargaining agreements in this item shall, subject to appropriation in fiscal year 2006 and thereafter, continue to be paid salaries in effect for fiscal 2004 until the parties to the collective bargaining agreements reach agreement or lawful impasse in negotiations for successor agreements; provided further, that the president of the University of Massachusetts shall expend these funds for such salary adjustments and other economic items in accordance with this item and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated in this item 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 in this item, notwithstanding chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E, or any other general or special law to the contrary nor the expiration of any collective bargaining agreement and any contractual requirements 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 and shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the expiration of a collective bargaining agreement; provided further, that notwithstanding said chapter 150E 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 institution of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to or other than fiscal year 2003, as otherwise provided in the collective bargaining agreements . . . \$30,266,534

1599-4124 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 unicipal Employees, Council 93, Local 1067, AFL-CIO; provided, that the payments shall fund the fiscal year 2003 payments associated with salary adjustments and other economic items provided for in such collective bargaining agreements; provided further, that, not later than 30 days from the effective date of this act, employees covered by the collective bargaining agreements listed in this item shall be paid a lump sum amount equal to the difference between: (a) the salary specified in the relevant agreement; and (b) the salary each received for the period from July 1, 2002 through June 30, 2003; provided further, that employees covered by the collective bargaining agreements in this item shall, subject to appropriation in fiscal year 2006 and thereafter, continue to be paid salaries in effect for fiscal 2004 until the parties to the collective bargaining agreements reach agreement or lawful impasse in negotiations for successor agreements; provided further, that the chancellor of higher education shall expend these funds for such salary adjustments and other economic items in accordance with this item and the terms of the collective bargaining agreements in this item; provided further, that funds appropriated in this item shall be transferred by the comptroller to the board of higher education based upon a schedule submitted by the chancellor 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 set forth in this item for the collective bargaining agreements in this item, notwithstanding chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E, or any other general or special law to the contrary or the expiration of a collective bargaining agreement and any contractual requirements 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 and shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the expiration of a collective bargaining agreement; provided further, that notwithstanding said chapter 150E 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 institution of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to or other than fiscal year 2003, as otherwise provided in such collective bargaining agreement \$11,909,284

EXECUTIVE OFFICE OF PUBLIC SAFETY
Sheriffs

8910-0124 For lease costs associated with the office of the sheriff of Hampshire county \$225,000

SECTION 2C.I. For the purpose of making available in fiscal year 2006 balances of appropriations which otherwise would revert on June 30, 2005, 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 or 17, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of chapter 45 of the acts of 2005; provided, however, that for items which do not appear in said section 2 of said chapter 45, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the funds designated for the corresponding item in said section 2 of said chapter 45; provided, however, that for items which do not appear in said section 2 of said chapter 45, the amounts in this section are re-appropriated from the funds designated for the corresponding item in said section 2 or 2A of this act or in prior appropriation acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes. All amounts appropriated in said section 2 and 2A of this act shall be available for expenditure in fiscal year 2006.

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

1100-1100 \$200,000

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Division of Capital Asset Management and Maintenance.

1102-3299 \$1,500,000

Reserves.

1599-3333 \$865,000

EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT

Office of the Secretary

7002-0012 \$2,895,000

Department of Workforce Development

7003-0701 \$25,382,582

Department of Business and Technology

7007-0900 \$254,667

EXECUTIVE OFFICE OF PUBLIC SAFETY

Executive Office of Public Safety

8000-0034 \$450,000

8000-0106 \$1,800,000

Department of State Police

8100-0515 \$650,000

Municipal Police Training Committee

8200-0200 \$1,000,000

SECTION 2C.II. For the purpose of making available in fiscal year 2006 balances of retained revenue and intragovernmental chargeback authorizations which otherwise would revert on June 30, 2005, the unexpended balances of the authorizations listed below, not to exceed the amount specified below for each item, are hereby re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2B of chapter 45 of the acts of 2005 ; provided, however, that for items which do not appear in said section 2 or 2B of said chapter 45, the amounts in this section are re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2, 2A, or 2B of this act or in prior appropriation acts. Amounts in this section are re-authorized from the funds designated for the corresponding item in said section 2 or 2B of said chapter 45; provided, however, that for items which do not appear in said section 2 or 2B of said chapter 45, the amounts in this section are re-authorized from the funds designated for the corresponding item in section 2, 2A, or 2B of this act or in prior appropriation acts. The sums re-authorized herein shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Transitional Assistance.

4401-1100 \$271,660

Department of Public Health.

4513-1010 \$800,000

Department of Mental Health.

5047-0002 \$1,350,000

EXECUTIVE OFFICE OF PUBLIC SAFETY

Municipal Police Training Committee.

8200-0222 \$57,000

SECTION 3. Subsection (n) of section 548 of chapter 26 of the acts of 2003, as appearing in section 1 of chapter 188 of the acts of 2004, is hereby amended by striking out the figure "35BB" and inserting in place thereof the following figure:- 35AA.

SECTION 4. Item 0321-1510 of section 2 of chapter 149 of the acts of 2004, as amended by section 1 of chapter 253 of the acts of 2004, is hereby further amended by adding the following words:- and provided further, that the chief counsel for the committee for public services may transfer funds from this item to item 0321-1520.

SECTION 5. Item 4000-0300 of said section 2 of said chapter 149, as amended by section 82 of chapter 352 of the acts of 2004, is hereby further amended by inserting after the words "primary care provided to MassHealth members" the following words:- ; provided further, that notwithstanding any general or special law to the contrary, funds in items 4000-0430, 4000-0500, 4000-0600, 4000-0620, 4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990 and 4000-1400 shall not be available during the accounts-payable period of fiscal year 2005, and any unexpended balances in these accounts shall revert to the General Fund on June 30, 2005.

SECTION 6. Item 4513-1010 of said section 2 of said chapter 149 is hereby amended by striking out the figure "\$2,700,050" and inserting in place thereof the following figure:- \$3,500,050.

SECTION 7. Item 5047-0002 of said section 2 of said chapter 149 is hereby amended by striking out the figure "\$2,500,000" and inserting in place thereof the following figure:- \$1,150,000.

SECTION 8. Section 1 of chapter 239 of the acts of 2004 is hereby amended by striking out the figure "1.94" and inserting in place thereof the following figure:- 1.93.

SECTION 9. Section 2 of chapter 45 of the acts of 2005, is hereby amended by striking out the number "1102-3305" and inserting in place thereof the following number:- 1102-3306.

SECTION 10. Section 2 of chapter 45 of the acts of 2005 is hereby amended by striking out item 5047-0002 and inserting in place thereof the following item:-

5047-0002 The department of mental health may expend not more than \$5,850,000 in revenue collected from services rendered in emergency programs and acute inpatient and diversionary settings on continuing care services in the community; 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; provided further, that up to \$1,350,000 that has been made available shall be used to reimburse certain expenses incurred in fiscal year 2005 or 2006 by the following trust funds: Quincy Mental Health Center Trust Fund, Dr. John C. Corrigan Jr. Mental Health Center Trust, Cape Cod and the Islands Mental Health Center Trust, Brockton Multi Service Center Trust and the Fuller Mental Health Center Trust \$5,850,000

SECTION 11. Said section 2 of said chapter 45 is hereby further amended by striking out item number "8910-7101" and inserting in place thereof the following item number:- 8910-7100.

SECTION 12. Section 13 of chapter 58 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 13 and 14, the words "certain properties in the town of Stoneham," and inserting in place thereof the following words:- the Middlesex Fells Reservation.

SECTION 13. Notwithstanding any general or special law to the contrary, during fiscal year 2006, the executive office of health and human services may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed \$115,000,000 for fiscal year 2005 MassHealth PCCP supplemental payments to certain publicly-operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals, under an agreement with the executive office, relating to such payments and transfers as established in accordance with said Title XIX 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. For purposes of calculating payment amounts authorized pursuant to section 16 of chapter 45 of the acts of 2005 , such PCCP supplemental payments shall be considered amounts paid for fiscal year 2005 regardless of the fiscal year in which they are made. The executive office shall notify the house and senate committees on ways and means if the 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 authorized for expenditure shall be funded in part through intergovernmental transfers of municipal or health non-federal public funds to the commonwealth. The Boston Public Health Commission and the Cambridge Public Health Commission shall transfer to the medical assistance intergovernmental transfer account an amount equal to 55 per cent of the gross amounts of the PCCP supplemental payments made by the executive office under managed care contracts with the commissions. An amount equal to 9.09 per cent of the total amount that the Boston and Cambridge Public Health Commissions transfer to the medical assistance intergovernmental transfer account pursuant to this section shall be transferred from the medical assistance intergovernmental transfer account and credited to the Distressed Provider Expendable Trust Fund.

SECTION 14. Notwithstanding any general or special law to the contrary, the comptroller, in consultation with the office of the state treasurer, the division of health care finance and policy and the secretary of health and human services, shall transfer \$24,100,000 from the General Fund, effective June 30, 2005, to the Uncompensated Care Trust Fund established in section 18 of chapter 118G of the General Laws for the purpose of making revenues available for the administration of the uncompensated care pool during hospital fiscal year 2006.

SECTION 15. The division of health care finance and policy shall continue in effect and enforce the following regulations in effect on September 15, 2005, promulgated pursuant to chapter 118G of the General Laws: 114.6 CMR 12.00, regarding services eligible for payment from the Uncompensated Care Trust Fund.

SECTION 16. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Transitional Escrow Fund. Notwithstanding any general or special law to the contrary, the state comptroller shall transfer to the Transitional Escrow Fund an amount equal to the consolidated net surplus less the transfers mandated by clause (a) of section 5C of chapter 29 of the General Laws, but before any transfer pursuant to clause (b) of said section 5C of said chapter 29. The transfer pursuant to this section shall be made from the undesignated fund balances in the budgetary funds proportionally from the undesignated fund balances provided that no such transfer shall cause a deficit in any of the funds. Expenditures from the Transitional Escrow Fund shall be subject to appropriation.

(b) The Transitional Escrow Fund shall expire on June 30, 2006, at which time the comptroller shall transfer the unexpended balance in it to the Commonwealth Stabilization Fund established in section 2H of said chapter 29.

SECTION 17. Notwithstanding any general or special law to the contrary, any proceeds of the commonwealth's general obligation bonds, consolidated loan of 2004, series b, and allocable to the bonds maturing on August 1, 2024 that remain unspent as of July 1, 2005, may, at the direction of the state treasurer, be thereafter applied to any other purpose set forth in any bond authorization act or section thereof in effect at the time of the direction.

SECTION 18. Notwithstanding any general or special law to the contrary, prior to

calculating the consolidated net surplus for the fiscal year ending June 30, 2005, the comptroller shall transfer \$691,000,000 to the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws, from the undesignated balance in the operating funds.

SECTION 19. Employees covered by the terms of the collective bargaining agreements in item 1599-4123 of section 2A who, after July 5, 2003, retired or otherwise terminated employment, or the beneficiary of such an employee who died after July 5, 2003, shall be paid, not later than December 2, 2005, a lump sum amount equal to the difference between: (a) the salary specified in the relevant agreement; and (b) the salary each received for the time they were employed during the period July 7, 2002 to July 5, 2003; provided, however, that notwithstanding chapter 32 of the General Laws, the amount of the retirement allowance paid under said chapter 32 to an employee who prior to retirement was covered by the terms of the collective bargaining agreements in said item 1599-4123 of said section 2A and who retired after July 5, 2003, shall be calculated as though the employee's regular compensation for any period of employment from July 7, 2002 to July 5, 2003 had been received by the employee in accordance with such agreement and appropriate retirement deductions withheld. Appropriate adjustments shall be made to an employee's retirement allowance, including payments retroactive to the effective date of retirement.

Employees covered by the terms of the collective bargaining agreements in item 1599-4124 of section 2A who, after July 1, 2003, retired or otherwise terminated employment, or the beneficiary of such an employee who died after July 1, 2003, shall be paid, not later than December 2, 2005, a lump sum amount equal to the difference between: (a) the salary specified in the relevant agreement; and (b) the salary each received for the time they were employed during the period July 1, 2002 to June 30, 2003; provided, however, that notwithstanding chapter 32 of the General Laws, the amount of the retirement allowance paid under said chapter 32 to an employee who prior to retirement was covered by the terms of the collective bargaining agreements in said items 1599-4123 and 1599-4124 of said section 2A and who retired after July 1, 2003, shall be calculated as though the employee's regular compensation for any period of employment from July 1, 2002 to June 30, 2003 had been received by the employee in accordance with such agreement and appropriate retirement deductions withheld. Appropriate adjustments shall be made to an employee's retirement allowance, including payments retroactive to the effective date of retirement.

SECTION 20. Section 15 is hereby repealed.

SECTION 21. Section 20 shall take effect on January 31, 2006.

SECTION 22. Section 9 of chapter 111L of the General Laws, as appearing in section 1 of chapter 27 of the acts of 2005, is hereby amended by adding the following subsection:-

(i) The council shall not be a state agency for the purposes of chapter 268A.

This bill was returned on September 30, 2005, by the Governor to the House of Representatives, the branch in which said bill was originated, with His objections in writing

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to the following items therein:

Items Disapproved:

SECTION 2: 1599-4123 1599-4124

SECTION 12, and **SECTION 19.**

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.

The remainder of the bill was approved by the Governor on September 30, 2005 at three o'clock and thirty minutes, P.M.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on October 11, 2005 the House of Representatives and in concurrence on October 12, 2005 the Senate passed the following Items:

SECTION 2A: 1599-4123 1599-4124

SECTION 19.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on October 11, 2005 the House of Representatives and in concurrence on October 20, 2005 the Senate passed the following Item:

SECTION 12.

Chapter 107. AN ACT RELATIVE TO FEDERAL REIMBURSEMENT FOR SERVICES FOR CHILDREN WITH AUTISM.

Be it enacted, etc., as follows:

The secretary of health and human services shall, within 3 months of the effective date of this act, apply to the federal Centers for Medicare & Medicaid Services for a home and community-based services waiver under section 1915(c) of the federal Social Security Act, 42 U.S.C. section 1396(n), to allow eligible children with autism spectrum disorder to receive waiver services to support the children in their homes and communities.

The waiver application shall provide services for children with autism spectrum disorder who are institutionalized or at risk of institutionalization. Autism spectrum disorder includes the following disorders as defined in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV-TR, 2000): autistic disorder, Asperger's disorder, pervasive developmental disorder not otherwise specified, childhood disintegrative disorder, and Rett's disorder.

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The waiver application shall include intensive in-home intervention services for children with autism spectrum disorder, and any other services determined appropriate to support children with autism spectrum disorder in their homes and communities.

The waiver application shall specify the required credentials for the providers of services covered by the waiver, including credentials required for supervisors of direct care providers and credentials required for direct care providers.

The waiver application shall ensure that the process and procedures for applying for waiver services are fully accessible to families of children with autism spectrum disorder who are from linguistically and culturally diverse communities.

Services under the waiver shall be coordinated with services provided by school committees under chapters 71B and 111G of the General Laws. This section shall not affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services, or affect or limit a school district's responsibility to provide all services, including home-based services, required pursuant to said chapter 71B, 20 U.S.C. section 1400 to 1487, inclusive, and 29 U.S.C. section 794.

On January 15, 2006, and every year thereafter, the secretary of health and human services shall file a report with the clerk of the house of representatives who shall forward the same to the joint committees on education and health care financing on the status of the waiver application and on the operation of waiver, once obtained. The report on the operation of the waiver shall include, but not be limited to, a description of the number of children receiving services under the waiver, the race and primary language of the children served and their families, the types of services provided, and any available information pertaining to impact and effectiveness of the waiver.

Approved October 5, 2005.

Chapter 108. AN ACT GRANTING PENSION BENEFITS TO ROBERT WELBY OF THE BOSTON POLICE DEPARTMENT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 7 of chapter 32 of the General Laws or any other general law, special law, rule, or regulation to the contrary, and in order to promote the public good, the state-Boston retirement board shall grant an increased accidental disability retirement allowance to officer Robert Welby of the police department of the city of Boston, who, as a result of injuries sustained while in the performance of his duties on January 1, 2003 is unable to perform the essential duties of his job and is likely to be permanently unable to do so.

SECTION 2. The annual amount of pension payable to Robert Welby shall be equal to the regular annual rate of compensation which he would have received had he continued in service as a police officer of the police department of the city of Boston at the grade held

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by him at the time of his retirement.

This retirement shall become effective on the date immediately following the final day for which he received regular compensation for his employment.

Upon his retirement, the state-Boston retirement board shall pay to Robert Welby the amount credited to him as accumulated total deductions in the annuity savings fund of the state-Boston retirement board. Robert Welby shall be entitled to receive indemnification for all hospital, medical, and related expenses that have been or may be incurred after the date of his retirement as a result of his injuries, under chapter 41 of the General Laws.

SECTION 3. Upon the death of Robert Welby, if his wife survives him, the state-Boston retirement board shall pay to her, so long as she remains unmarried, an annuity in the amount of $\frac{3}{4}$ of the amount of the pension payable to him per month at the time of his death. If his wife remarries, the city of Boston shall pay to her, in lieu of this annuity, an annuity of \$550 per month. If Robert Welby's wife does not survive him, then the city of Boston shall pay an annual amount equal to $\frac{3}{4}$ of the amount of the pension payable to him at the time of his death for the benefit of the children of Robert Welby as long as any such child is either under 18 years of age or totally or mentally incapacitated from working.

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

Approved October 5, 2005.

Chapter 109. AN ACT RELATIVE TO THE TOWNS OF WESTBOROUGH AND SHREWSBURY TREATMENT OF WASTEWATER.

Be it enacted, etc., as follows:

The towns of Westborough and Shrewsbury may amend an agreement entered into by the 2 towns as authorized by chapter 41 2 of the acts of 1979, entitled "Agreement for the Construction and Operation of the Westborough Treatment Plant," dated September 11, 1979: (i) to include a provision whereby the design flow capacity of the treatment plant shall be allocated between the 2 towns as mutually agreed upon; (ii) to authorize the town of Westborough to adopt sewer regulations or by-laws whereby the design flow capacity allocated to the town of Westborough may be further allocated and reserved for various types of uses and developments within the town, pursuant to the engineering report entitled "Wastewater Allocation Study" completed by Fay, Spofford and Thorndike Engineers, Inc., dated March 2005; and (iii) to provide that, notwithstanding section 3 of chapter 83 of the General Laws or any other general or special law to the contrary, the town's sewer commission shall not be required to connect any home, facility or lot to the town sewer system.

Approved October 13, 2005.

Chapter 110. AN ACT AUTHORIZING THE CITY OF LOWELL TO GRANT A PERMANENT EASEMENT IN CERTAIN PARK LAND TO ABUTTERS.

Be it enacted, etc., as follows:

SECTION 1. The city of Lowell may grant and convey to the abutting owners of 474 Beacon street in the city a permanent easement in certain park and playground land located in the city, which shall be used for driveway and other open uses by these abutters, and no structures shall be built on the land. The land is shown on a plan of land entitled "Site Plan of Land in Lowell, Mass. owned by Mark and Cheryl Fisher 474 Beacon Street, Lowell, Massachusetts 01850 showing existing conditions and proposed easement area" prepared by Desmarais Associates, Inc., registered professional land surveyors dated March 27, 1999.

SECTION 2. No deed conveying the easement described in section 1 shall be valid unless the deed provides that the easement property shall be used solely for the purposes described in said section 1 and that, if the easement property ceases to be so used, the easement shall revert to the city of Lowell for park or playground purposes.

Approved October 13, 2005.

Chapter 111. AN ACT MAXIMIZING FEDERAL REIMBURSEMENT FOR FAMILY PLANNING SERVICES.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the secretary of health and human services shall seek a waiver under Titles XIX and XXI of the Social Security Act to expand MassHealth comprehensive family planning services for individuals and families whose incomes are at least up to 200 per cent of the federal poverty level. The waiver request shall include those services currently covered as comprehensive family planning services, including comprehensive medical and gynecological examinations, contraceptive counseling and methods, sexually transmitted disease testing and treatment, screening for breast and cervical cancer, related laboratory screenings, non-directive counseling and referral for pregnancy and prenatal care, infertility and other health related issues. The secretary shall notify the house and senate committees on ways and means and the joint committee on health care financing within 10 days after the filing of the waiver request with the centers for Medicare and Medicaid services and shall notify those committees within 10 days after a decision on the waiver.

Approved October 13, 2005.

Chapter 112. AN ACT ESTABLISHING AN AFFORDABLE HOUSING TRUST FUND IN THE TOWN OF DUXBURY.

Be it enacted, etc., as follows:

SECTION 1. The town of Duxbury 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 Duxbury, the Duxbury Housing Authority, a housing trust, community development corporation, nonprofit housing development corporation or similar entity created under the laws of the commonwealth for the purpose of creating, maintaining or operating affordable housing, or an applicant for affordable housing funds to the United States Department of Housing and Urban Development or the department of housing and community development, subject to the subsequent approval of funding by that agency. Expenditures from the fund shall be authorized by a majority vote of the board of selectmen, in consultation with the local housing partnership.

SECTION 2. All expenditures from the Affordable Housing Trust Fund shall be used for low or moderate income housing as defined in section 20 of chapter 40B of the General Laws. The fund may be specifically used to:-

- (a) purchase and improve land for low or moderate income housing;
- (b) acquire and rehabilitate or redevelop existing dwelling units for purchase or rental by low or moderate income home buyers or tenants;
- (c) acquire, redevelop or convert existing nonresidential structures for low or moderate income housing;
- (d) develop and construct new dwelling units for purchase or rental by low or moderate income housing purchasers or tenants;
- (e) purchase rights of first refusal to acquire existing dwelling units for sale or rental to low or moderate income households;
- (f) provide grants, low-interest loans or deferred payment loans to assist low or moderate income homebuyers to purchase a home in the town of Duxbury; and
- (g) redevelop and convert municipal, school or other public buildings for low or moderate income housing.

Expenditures shall follow an allocation plan submitted by the board of selectmen annually to the town at the annual town meeting, and approved by town meeting. The allocation plan may be amended by the town meeting at any special town meeting upon a favorable recommendation from the board of selectmen. The board of selectmen may request the advice of the local housing partnership, the planning board and others in developing any allocation plan. The allocation plan shall be a general plan of how funds from the Affordable Housing Trust Fund will be expended during 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 allocation plan and approved by a majority vote of the board of selectmen.

SECTION 3. As a means of providing available assets for the Affordable Housing Trust Fund, all monies received by the town from the following sources shall be paid over

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to and become a part of the fund for purposes set forth in this act:-

(a) cash payments made by developers to the town under section 560 of the Duxbury zoning by-law;

(b) funds authorized by town meeting for community housing purposes under chapter 44B of the General Laws; and

(c) gifts, grants, donations, contributions or other cash payments made to and accepted by the town for the purpose of providing low or moderate income housing.

SECTION 4. Real property interests purchased or conveyed by the town under this act shall be subject to section 16 of chapter 30B of the General Laws, unless exempt under section 1 of said chapter 30B or under any other laws of the commonwealth. The board of selectmen may convey, through sale, lease or transfer, real property purchased under this act provided that an affordable housing use restriction under sections 26, 31, 32 and 33 of chapter 184 of the General Laws is executed with or on behalf of the purchaser or owner of the property and recorded at the registry of deeds. The term of the affordable housing use restriction shall be the maximum allowed by law unless a lesser term is authorized in the allocation plan approved by town meeting. Real property conveyed through sale, lease or transfer to a forprofit or nonprofit developer to provide low or moderate income rental housing shall be subject to an affordable housing regulatory agreement executed with or on behalf of the developer and the department of housing and community development or any successor agencies thereto.

SECTION 5. The town treasurer shall be the custodian of the Affordable Housing Trust 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 October 20, 2005.

Chapter 113. AN ACT ESTABLISHING A TOWN MANAGER FOR THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

SECTION 1. The town of Braintree shall have a town manager to be appointed by the vote of at least 3 members of the board of selectmen, from among candidates recommended to it by a search committee as defined in the town by-laws. The town manager shall be a person with executive and administrative qualifications and especially fitted by education, training, and experience to perform the duties of the office. The town may, by by-law, establish such additional qualifications as it deems necessary and appropriate. The board of selectmen shall set the compensation for the town manager, not to exceed the amount appropriated for that purpose. The town manager shall not engage in any other business or occupation or hold public office in any other jurisdiction except as authorized by

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the board of selectmen. The town manager shall not hold any other public office in the town of Braintree, except by appointment to committees as authorized by the board of selectmen.

SECTION 2. The town manager shall be the chief administrative officer of the town. The powers, duties, and responsibilities of the town manager shall include, but not be limited to, the following:-

(1) Direct and be responsible for the efficient administration of all functions and activities under the town manager's control, including those authorized by by-law by other town meeting vote, or by the board of selectmen and supervise all officers appointed by the town manager and their respective departments.

(2)(a) Appoint and remove all department heads under the board of selectmen at the time of the effective date of this act, and appoint and remove all department heads in the personnel, tax collector's and treasurer's departments. All appointments and removals by the town manager, except those subject to the civil service laws, shall be subject to rejection by a four-fifths vote of the board of selectmen taken within 15 days after written notice of the appointment or removal to all members of the board of selectmen.

(b) In departments under the town manager, all other employees not specified in this subsection who report to the department head shall be appointed and removed by their respective department head, subject to rejection by the town manager within 10 days after written notice of the appointment or removal to the town manager.

These actions shall be subject to the personnel by-laws, civil service laws and collective bargaining agreements, where applicable.

(c) Multi-member boards currently appointed by the board of selectmen will continue to be appointed by the board of selectmen.

(3) Attend all regular and special meetings of the board of selectmen and town meeting, unless excused by the board of selectmen. When recognized, the town manager shall be permitted to speak without time limit. The town manager shall be responsible for responding to all questions on matters that are under the manager's authority.

(4) Provide reports of current activities and current and long range issues to the board of selectmen and to town meeting.

(5) Identify opportunities for grants and participation in state and federal initiatives that may be advantageous to the town and pursue these opportunities as authorized by the board of selectmen.

(6) Be available at town hall during regular business hours and attend meetings as required by the board of selectmen.

(7) Administer the town's personnel by-laws and policies, including personnel evaluation policies, practices, enforcement of labor contracts, labor relations, and collective bargaining and compliance with state and local laws relative to employment, except for those governing the school department and the Braintree electric light department.

(8) Prepare the agenda and gather necessary information pertinent to matters coming before the board of selectmen for discussion and action.

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(9) Be responsible for the rental, use, maintenance and repair of all town facilities under the jurisdiction of the board of selectmen and prepare a comprehensive maintenance program.

(10) Compile and submit the articles for the town warrant for consideration by the board of selectmen and distribute the warrant for town meeting in compliance with the town by-laws.

(11) Have access to all municipal books, papers, and documents or other information necessary for the proper performance of the duties of the town manager. The town manager may, without notice, cause the affairs of any town department or the job-related conduct of any officer or employee of the town to be examined.

(12) Negotiate all contracts which are subject to execution by the board of selectmen.

(13) Establish and administer a process to provide citizens with easy to understand and responsive access to town government and to receive and resolve citizen complaints and problems.

(14) Manage the town insurance programs.

(15) Create committees and delegate responsibilities to them as the town manager may see fit.

(16) Consolidate, create, or abolish town departments under the supervision of the town manager with the approval of the town meeting.

(17) Delegate and authorize any subordinate to exercise any power, duty, or responsibility which the office of town manager is authorized to exercise.

(18) Supervise enforcement of all provisions of the General Laws, town by-laws, town meeting votes, and board of selectmen votes that require enforcement by the town manager or officers and employees subject to town manager's supervision.

(19) Coordinate all activities under the authority of the town manager with the activities under the authority of other town officers or boards.

(20) Possess such other powers, duties, or responsibilities as may be created by a board of selectmen vote, by-law, or other town meeting vote.

SECTION 3. The town manager shall be the chief financial officer of the town and shall be responsible for designing and preparing of the municipal budget, filing grant applications and controlling budget expenditures including the authority to approve payment and expense warrants, as prepared by the town accountant, upon the treasury of the town under section 56 of chapter 41 of the General Laws, except for direct payments to the town manager that are not salary-related. The town manager shall convey to the selectmen a list of all these approved warrants at each meeting of the board. Without limiting the generality of the foregoing, the town manager shall have the following specific budgetary powers and duties:-

(1) The town manager shall submit to the board of selectmen and the finance committee a written proposed balanced budget for the town for the ensuing fiscal year, including the budget for the school department, but excluding the budget for the Braintree

electric light department. The proposed budget shall detail all estimated revenue from all sources and all proposed expenditures, including debt service for the previous, current and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, department, committee, purpose, and position, together with the proposed financing methods; and the proposed budget shall include estimated surplus revenue and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may, by by-law, establish additional financial information and reports to be provided by the town manager. The budget shall include an estimate of the amount required to be levied and raised by taxation to defray all expenditures and liabilities of the town together with an estimate of the tax rate necessary to raise this amount.

(2) To assist the town manager in preparing the proposed annual budget and other reports required by this section, all boards, officers, and committees of the town, including the school committee, but excluding the Braintree electric light department, shall furnish to the town manager, in the manner and at the time prescribed by the town manager, a detailed estimate of the appropriations required, available funds and all other relevant information in their possession. The calendar dates on or before which the proposed budget, revenue statement, and tax rate estimate are to be submitted to the board of selectmen and the budget presented by the town manager to the finance committee shall be as specified by by-law. The town manager shall present the proposed annual budget to town meeting before the first budgetary vote is taken.

(3) The town manager shall submit annually to the board of selectmen and the finance committee a 5-year capital improvements program to include: (a) a list of all capital improvements proposed to be undertaken during the next 5 years, together with supporting data; (b) cost estimates, methods of financing and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. A capital improvement shall be defined by by-law.

(4) The town manager or his designee shall serve as chief procurement officer and be responsible for approval of the purchase of all supplies, materials, and equipment for all departments, except the Braintree electric light department and activities of the town as provided in chapter 30B of the General Laws.

(5) The town manager shall develop and maintain a full and complete inventory of all town-owned real and personal property and be responsible for the disposal of all supplies, material, and equipment that have been declared surplus by any town department, except the Braintree electric light department.

SECTION 4. (1) Temporary Absence - By a letter on file with the town clerk, as approved by the board of selectmen, the town manager shall designate a qualified town employee who shall exercise the powers and perform the duties of town manager during a temporary absence. During a temporary absence, the board of selectmen may not revoke the town manager's designation until 10 working days have elapsed, whereupon it may appoint another qualified town employee to serve until the town manager returns.

(2) Vacancy - A vacancy in the office of town manager shall be filled as soon as possible by the board of selectmen. Pending a regular appointment, the board of selectmen shall appoint a qualified town employee to perform the duties of the office on an acting basis.

(3) The powers of a temporary or acting town manager shall include authority to make temporary appointments or designations to town offices or employment, but not to make permanent appointments or designations.

SECTION 5. The board of selectmen, by an affirmative vote of at least 4 of its members, may initiate the removal of the town manager by adopting a resolution to that effect. The resolution shall state the reason therefor; provided, however, that no such resolution shall be adopted within 90 days following a town election. Any such resolution shall be adopted only at a regularly scheduled public meeting and in open session. This resolution may suspend the town manager for a period not to exceed 45 days. A copy of the resolution shall be delivered in hand or by certified mail, return receipt requested, to the town manager. The town manager may request a public hearing within 7 days after receipt of the resolution by filing a written request with the board of selectmen. If a request for a public hearing is filed, the board of selectmen shall conduct a hearing within 14 days from receipt of the written request and, within 7 days after the hearing, may discharge the town manager by a vote of 4 selectmen. If the town manager does not request a public hearing within 7 days after receipt of such resolution, the selectmen may, by an affirmative vote of at least 4 members, vote to remove the town manager at any public meeting.

SECTION 6. The positions of town treasurer and tax collector of the town of Braintree shall be appointed by the town manager for a term not to exceed 3 years and shall be under the supervision of the town manager. Notwithstanding these provisions, the incumbents in the office of town treasurer and tax collector upon the effective date of this act shall hold their respective offices for 3 years from the effective date of this act, unless they shall earlier vacate the office.

SECTION 7. This act shall supersede any law, by-law, rule, or regulation that is contrary to or inconsistent with this act.

SECTION 8. The position of executive secretary shall cease to exist upon the effective date of this act as provided in section 9.

SECTION 9. This act shall be submitted to the voters of the town of Braintree for acceptance at the next town election, in the form of the following question which shall be placed on the official ballot to be used at said election: "Shall an act passed by the general court entitled 'An Act Establishing a Town Manager for the Town of Braintree' be accepted?". If a majority of votes cast in answer to this question are in the affirmative, this act shall take effect 90 days after the date of this vote.

Approved October 20, 2005.

Chapter 114. AN ACT GRANTING CERTAIN RETIREMENT AND HEALTH INSURANCE BENEFITS TO DALE S. PRENTISS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 7 of chapter 32 of the General Laws or any other general or special law or rule to the contrary, the Middlesex retirement board shall increase the accidental disability retirement allowance payable to Dale S. Prentiss, a retired police sergeant of the town of Shirley who, as a result of injuries sustained by him while in the performance of his duties, is totally and permanently disabled from further service as a police officer. The annual amount of accidental disability retirement allowance payable to Dale S. Prentiss shall be fixed at an amount equal to the regular rate of compensation which he would have received had he continued in service as a police sergeant in the town of Shirley at the grade held by him at the time of his retirement. This increased accidental disability retirement allowance shall end on January 1, 2015, at which time his accidental disability retirement allowance shall revert to an amount equal to 80 per cent of the 3-year average annual rate of compensation paid in the previous 36 months, or upon his death, whichever first occurs. The accidental disability retirement allowance shall be subject to section 91A of chapter 32 of the General Laws.

SECTION 2. Notwithstanding sections 9, 9A and 9E of chapter 32B of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Shirley may by majority vote assume payment of up to 90 per cent of the premium costs paid by Dale S. Prentiss to continue his group health insurance during his lifetime until he attains the age of 65.

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

Approved October 27, 2005.

Chapter 115. AN ACT AUTHORIZING THE DEPARTMENT OF HIGHWAYS TO ACQUIRE AND TRANSFER CERTAIN PARCELS OF LAND IN THE TOWN OF BOURNE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to acquire and transfer certain parcels of land in the town of Bourne, 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 department of highways may acquire, by eminent domain, purchase or otherwise, all parcels of land, or portions thereof, in the town of Bourne, which are shown on a plan entitled "Plan

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of Alternate Entrance to Proposed Bourne Elementary School" dated 4/11/2005. The department may further convey by deed to any party whose land is so acquired pursuant to this section any parcels of land, or portions thereof, which are owned by the commonwealth and which are shown on the above referenced plan. This transfer shall be upon such terms and conditions as the department may prescribe for the sale or transfer and may be in full or partial consideration for any land acquired by the department from such private party.

SECTION 2. The plan referred to in section 1 shall be kept on file with the chief engineer of the department of highways.

Approved October 27, 2005.

Chapter 116. AN ACT AUTHORIZING CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE TOWN OF HINGHAM.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance shall, notwithstanding sections 40F½, 40H and 40I of chapter 7 of the General Laws, convey a certain parcel of state owned land acquired for environmental purposes to the town of Hingham for the purposes of restoring, preserving or enhancing areas of scenic beauty or special environmental value. This parcel is shown on the town of Hingham assessors' map 46 and recorded in the registry of deeds for Plymouth county at Plymouth in book 8513, page 117. The exact boundaries of the parcel shall be determined by the commissioner in consultation with the department of highways after completion of a survey.

SECTION 2. The town of Hingham shall assume all costs associated with the engineering, surveys, appraisals, deed preparation and other expenses considered necessary by the commissioner of capital asset management and maintenance to execute the conveyances authorized by this act. All money paid to the commonwealth by the town of Hingham as a result of this act shall be deposited with the department of highways.

Approved October 27, 2005.

Chapter 117. AN ACT PROHIBITING CERTAIN DUMPING IN THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

SECTION 1. There shall be a pilot program in the city of Worcester to determine

the effectiveness of permitting cities to establish their own fines and other penalties for illegal dumping within the city limits and of further permitting cities to retain the revenues generated by such fines for the purpose of financing enforcement against illegal dumping.

SECTION 2. Notwithstanding any general or special law, rule or regulation to the contrary, it shall be unlawful for any person in the city of Worcester, directly or indirectly, to dump, place, throw, deposit or discharge any refuse, rubbish, garbage, household goods, appliances or furniture, construction debris, landscaping debris, scrap, trash, or other material of any kind, on any way, public or private, appearing on the official map of the city of Worcester, or within 20 yards thereof, or on any land owned or controlled by the city.

SECTION 3. Notwithstanding any general or special law, rule or regulation to the contrary, it shall be unlawful for any person owning, in whole or in part, directly or indirectly, any real property, including ownership of any right to pass and repass on a private way in the city, upon which any refuse, rubbish, garbage, household goods, appliances or furniture, construction debris, landscaping debris, scrap, trash or other material of any kind has been dumped, placed, thrown, deposited or discharged, to fail to remove such material within 7 calendar days of receipt of a written notice from any police officer, code inspector or such other officer or employee of the city of Worcester duly authorized by ordinance or order of the city manager to remove and lawfully dispose of such material.

SECTION 4. The city of Worcester may enforce section 2 by prosecuting criminal or civil actions in the housing court, superior court or the central district court of Worcester county, and may enforce section 3 by prosecuting civil actions in the same courts. No action commenced as a criminal action shall be converted to a civil enforcement action except with the consent of the city.

SECTION 5. Any person convicted of violating section 2 shall be punished by a fine of not less than \$5,000 nor more than \$10,000, or by imprisonment in the house of correction for not more than 7 days, or by both such fine and such imprisonment.

SECTION 6. Any person found responsible in a civil action of violating sections 2 or 3 of this act shall be required to pay a civil penalty of 3 times the amount, up to a maximum of \$5,000, estimated or actually paid by the city to remove such material from the property. The court may also issue other orders and injunctions to remedy the circumstances of each case.

SECTION 7. All fines and penalties imposed for violations of this act shall be paid to the city of Worcester. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city shall establish and maintain a special account to be known as the Disposal Enforcement Fund into which all such payments shall be deposited. The city treasurer may invest funds in the account in the manner authorized by sections 55 and 55B of chapter 44 of the General Laws, and any interest earned on the account shall be credited to and become part of the account. The city shall appropriate and expend amounts from the account for the purpose of financing the enforcement of this act, removing improperly deposited material from the property governed by this act and financing

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programs and personnel involved in the collection and lawful disposal of unwanted household goods generated by residents of the city.

SECTION 8. This act shall take effect upon its passage. This act shall cease to be effective on December 31, 2008.

Approved October 27, 2005.

Chapter 118. AN ACT INCREASING THE BORROWING AUTHORITY OF THE RING'S ISLAND WATER DISTRICT OF SALISBURY.

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 298 of the acts of 1936 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- For the purpose of paying the necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, the district may borrow from time to time such sums as may be necessary, not exceeding, in the aggregate, \$1,200,000, and may issue bonds or notes therefor, which shall bear on their face the words, Ring's Island Water District of Salisbury Loan, Act of 1936.

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

Approved October 27, 2005.

Chapter 119. AN ACT AUTHORIZING THE WATER COMMISSIONERS OF THE SWANSEA WATER DISTRICT TO APPOINT A CLERK AND A TREASURER.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 137 of the acts of 1949 is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The duly elected commissioners shall annually appoint a clerk and a treasurer of the district, each for a term of 1 year.

SECTION 2. Section 9A of said chapter 137, inserted by chapter 132 of the acts of 1976, is hereby amended by inserting after the word "elected", in line 4, the following words:- or appointed.

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

Approved October 27, 2005.

Chapter 120. AN ACT PROVIDING FOR TWO ASSOCIATE PLANNING BOARD MEMBERS IN THE TOWN OF HANOVER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 9 of chapter 40A of the General Laws, section 81A of chapter 41 of the General Laws or any other general or special law to the contrary, the planning board of the town of Hanover, when acting as the special permit granting authority, shall have 2 associate members. The associate members shall be appointed by the board of selectmen on the recommendation of the planning board, each for a term of 2 years. In the case of absence, inability to act or conflict of interest on the part of any member of the planning board or in the event of a vacancy on the board, the chairperson of the board shall designate an associate member to sit on the board.

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

Approved October 27, 2005.

Chapter 121. AN ACT ESTABLISHING THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION.

Be it enacted, etc., as follows:

SECTION 1. Whereas. The interstate compact for the supervision of parolees and probationers was established by chapter 307 of the acts of 1937, was the earliest corrections compact established among the states and has not been amended since its adoption over 62 years ago;

Whereas. this compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently controls jurisdiction over more than a quarter of a million offenders;

Whereas. the complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements and sex offender registration;

Whereas. after hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability;

Whereas. upon the adoption of this interstate compact for adult offender supervision, it is the intention of the legislature to repeal the previous interstate compact for the supervision of parolees and probationers on the effective date of this compact.

SECTION 2. Chapter 127 of the General Laws is hereby amended by striking out the heading preceding section 151A and inserting in place thereof the following heading:-

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

SECTION 3. Said chapter 127 is hereby further amended by striking out sections 151A to 151L, inclusive, and inserting in place thereof the following 14 sections:-

Section 151A. The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the by-laws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the interstate commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states. In addition, this compact shall: create an interstate commission which shall establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which shall promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity. The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to this compact and by-laws and rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

Section 151B. As used in sections 151A to 151N, inclusive, the following words shall, unless the context clearly requires a different meaning have the following meanings:-

"Adult", individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

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"By-laws", by-laws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

"Compact administrator", the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

"Compacting state", any state which has enacted the enabling legislation for this compact.

"Commissioner", the voting representative of each compacting state appointed pursuant to section 151D.

"Interstate commission", the interstate commission for adult offender supervision established by this compact.

"Member", the commissioner of a compacting state or his designee, who shall be a person officially connected with the commissioner.

"Non compacting state", any state which has not enacted the enabling legislation for this compact.

"Offender", an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies.

"Person", any individual, corporation, business enterprise, or other legal entity, either public or private.

"Rules", acts of the interstate commission, duly promulgated pursuant to section 151H, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

"State", a state of the United States, the District of Columbia and any other territorial possessions of the United States.

"State council", the resident members of the state council for interstate adult offender supervision created by each state under section 151D.

Section 151C. (a) The compacting states hereby create the interstate commission for adult offender supervision.

(b) The interstate commission shall be a body corporate and joint agency of the compacting states.

(c) The interstate commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(d) The interstate commission shall consist of commissioners duly appointed from each of the member states.

(e) In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are

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members of interested organizations; such non-commissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the interstate commission shall be ex-officio members. The interstate commission may provide in its by-laws for such additional, ex-officio, non-voting members as it deems necessary.

(f) Each compacting state represented at any meeting of the interstate commission is entitled to 1 vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the interstate commission.

(g) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(h) The interstate commission shall establish an executive committee which shall include commission officers, members and others as shall be determined by the by-laws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the except rulemaking power and the power to amend the compact. The executive committee shall oversee the day-to-day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the interstate commission and performs other duties as directed by commission or as set forth in the by-laws.

Section 151D. The chairman of the parole board, or his designee, shall serve as the compact administrator and as the state's commissioner on the interstate compact commission. The Massachusetts state council shall be appointed by the compact administrator. The state council shall be comprised of 5 members whose term of office shall be for 4 years. The state council shall meet at least twice a year. The state council may advise the compact administrator or his designee on participation in the interstate commissioner activities and administration of the compact. The state council's membership shall include at least 1 representative from the legislative, judicial and executive branches of government and victims' groups.

Section 151E. The interstate commission shall have the following powers and duties:-

(a) to adopt a seal and suitable by-laws governing the management and operation of the interstate commission;

(b) to promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(c) to oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission;

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(d) to enforce compliance with compact provisions, interstate commission rules, and by-laws, using all necessary and proper means including, but not limited to, the use of judicial process;

(e) to establish and maintain offices;

(f) to purchase and maintain insurance and bonds;

(g) to borrow, accept or contract for services of personnel including, but not limited to, members and their staffs;

(h) to establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by section 151C, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

(i) to elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix the compensation, define the duties and determine the qualifications thereof; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

(j) to accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize and dispose of same;

(k) to lease, purchase, accept contributions or donations of, or to otherwise own, hold, improve or use any property, real, personal or mixed;

(l) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(m) to establish a budget and make expenditures and levy dues as provided in section 151J;

(n) to sue and be sued;

(o) to provide for dispute resolution among compacting states;

(p) to perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

(q) to report annually to the legislatures, governors, judiciary and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

(r) to coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity; and

(s) to establish uniform standards for the reporting, collecting and exchanging of data.

Section 151F. (a) The interstate commission shall, by a majority of the members, within 12 months of the first interstate commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact including, but not limited to:-

(1) establishing the fiscal year of the interstate commission;

(2) establishing an executive committee and such other committees as may be necessary;

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(3) providing reasonable standards and procedures:

(i) for the establishment of committees; and

(ii) governing any general or specific delegation of any authority or function of the interstate commission.

(4) providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

(5) establishing the titles and responsibilities of the officers of the interstate commission;

(6) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies and programs of the interstate commission;

(7) providing a mechanism for cessation of operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;

(8) providing transition rules for start up administration of the compact; and

(9) establishing standards and procedures for compliance and technical assistance in administering the compact.

(b) (1) The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission, except that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(2) The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

(c) The interstate commission shall maintain its corporate books and records in accordance with the by-laws.

(d) (1) The members, officers, executive director and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities. Nothing in this paragraph, however, shall be construed to protect any such person from suit or liability

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for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The interstate commission shall defend the commissioner of a compacting state, or his representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities if the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(3) The interstate commission shall indemnify and hold the commissioner of a compacting state, his appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, if the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

Section 151G. (a) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required by the by-laws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state, except that a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings at which members are present in person.

(d) The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The interstate commission's by-laws shall establish conditions and procedures under which the interstate commission shall make its information and official records available

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to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent disclosure of such information or records would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the Government in Sunshine Act, 5 U.S.C. Section 552(b), as may be amended. The interstate commission and any of its committees may close a meeting to the public if it determines by $\frac{2}{3}$ vote that an open meeting would be likely to:-

(1) relate solely to the interstate commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by statute;

(3) disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) involve accusing any person of a crime, or formally censuring any person;

(5) disclose information of a personal nature and disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigative records compiled for law enforcement purposes;

(7) disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of, the interstate commission relative to a regulated entity for the purpose of regulation or supervision of such entity;

(8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or

(9) specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this subsection, the interstate commission's chief legal officer shall publicly certify that, in his opinion, the meeting may be closed to the public, and shall reference each relevant exempting provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action shall be identified in such minutes.

(g) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its by-laws and rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

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Section 151H. (a) The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this section and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended.

(c) All rules and amendments shall become binding as of the date specified in each rule or amendment.

(d) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(e) When promulgating a rule, the interstate commission shall:-

(1) publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

(2) allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(3) provide an opportunity for an informal hearing; and

(4) promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the Administrative Procedure Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) Subjects to be addressed within 12 months after the first meeting shall, at a minimum, include:-

(1) notice to victims and opportunity to be heard;

(2) offender registration and compliance;

(3) violations or returns;

(4) transfer procedures and forms;

(5) eligibility for transfer;

(6) collection of restitution and fees from offenders;

(7) data collection and reporting;

(8) the level of supervision to be provided by the receiving state;

(9) transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) mediation, arbitration and dispute resolution.

(g) The existing rules governing the operation of the previous compact superceded by this chapter shall be null and void 12 months after the first meeting of the interstate commission created hereunder.

(h) Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but in no event later than 90 days after the effective date of the rule.

Section 151I. (a) (1) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent.

(3) In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(b) The compacting states shall report to the interstate commission on issues or activities of concern to them, and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and non-compacting states.

The interstate commission shall enact a by-law or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The interstate commission, in the reasonable exercise of its' discretion, shall enforce this compact using any or all means set forth herein.

Section 151J. (a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which assessments shall total an amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs such assessment.

(c) The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any compacting state, except by and with the authority of such compacting state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its by-laws except that all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

Section 151K. (a) Any state is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of non-member states, or their designees, shall be invited to participate in interstate commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

(c) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Section 151L. (a) (1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state except that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission, in writing, upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(5) The withdrawing state shall be responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(b) (1) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the by-laws or any duly promulgated rules the interstate commission may impose any or all of the following penalties:-

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(i) fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission;

(ii) remedial training and technical assistance as directed by the interstate commission; and

(iii) suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default shall include, but not be limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission by-laws or duly promulgated rules. The interstate commission shall immediately notify the defaulting state, in writing, of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state shall cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension.

(3) Within 60 days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

(4) The defaulting state shall be responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including any obligations, the performance of which extends beyond the effective date of termination.

(5) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

(6) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

(c) The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the Federal District wherein the interstate commission's offices are located, has its offices to enforce compliance with the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys fees.

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(d) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to 1 compacting state.

Upon the dissolution of this compact, the compact shall become null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be terminated and any surplus funds shall be distributed in accordance with the by-laws.

Section 151M. (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

Section 151N. (a) (1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) (1) All lawful actions of the interstate commission, including all rules and by-laws promulgated by the interstate commission, are binding upon the compacting states.

(2) All agreements between the interstate commission and the compacting states are binding in accordance with the terms thereof.

(3) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Emergency Letter: October 27, 2005 @ 3:20 P.M.

Approved October 27, 2005.

Chapter 122. AN ACT INCREASING PENALTIES FOR DRUNK DRIVERS IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase penalties for drunk drivers in the Commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

SECTION 1. Chapter 90 of the General Laws is hereby amended by striking out section 12, as appearing in the 2004 Official Edition, and inserting in place thereof the following section:-

Section 12. (a) Whoever knowingly employs for hire as a motor vehicle operator any person not licensed in accordance with this chapter shall be punished by a fine of not more than \$500 and, for a second or subsequent violation, by a fine of not more than \$1,000 or imprisonment in the house of correction for not more than 1 year, or both.

(b) Whoever knowingly permits a motor vehicle owned by him or under his control to be operated by a person who is unlicensed or whose license has been suspended or revoked shall be punished by 1 year in the house of correction and a fine of not more than \$500 for a first offense or, for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment in a house of correction for not more than 2½ years, or both.

(c) Whoever knowingly permits a motor vehicle owned by him or under his control, which is not equipped with a functioning ignition interlock device, to be operated by a person who has an ignition interlock restricted license shall be punished by 1 year in the house of correction and a fine of not more than \$500 for a first offense or, for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment in a house of correction for not more than 2½ years, or both. For the purposes of this section the term "certified ignition interlock device" shall mean an alcohol breath screening device that prevents a vehicle from starting if it detects a blood alcohol concentration over a preset limit of .02 or 20 mg of alcohol per 100 ml of blood.

(d) The registrar may suspend for not more than 1 year the motor vehicle registration of a vehicle used in the commission of a violation of this section or the license or right to operate of the person who commits a violation of this section, or both.

SECTION 2. Section 23 of said chapter 90, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

Whoever operates a motor vehicle in violation of paragraph (a) of subdivision (1) of section 24, sections 24G or 24L, subsection (a) of section 8 of chapter 90B, sections 8A or 8B of chapter 90B or section 13½ of chapter 265, while his license or right to operate has been suspended or revoked, or after notice of such suspension or revocation of his right to operate a motor vehicle has been issued and received by such person or by his agent or employer, and prior to the restoration of such license or right to operate or the issuance to him of a new license or right to operate, pursuant to paragraph (a) of subdivision (1) of section 24, sections 24G or 24L, subsection (a) of section 8 of chapter 90B, sections 8A or 8B of chapter 90B or section 13½ of chapter 265 shall be punished by a fine of not less than \$2,500 nor more than \$10,000 and by imprisonment in a house of correction for a mandatory period of not less than 1 year and not more than 2½ years, with said sentence to be served consecutively to and not concurrent with any other sentence or penalty. Such sentence shall not be suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served said 1 year of such sentence; provided, however, that the commissioner of correction may, on the

recommendation of the warden, superintendent or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution only to obtain emergency medical or psychiatric services unavailable at said institution or to engage in employment pursuant to a work release program. Section 87 of chapter 276 shall not apply to any person charged with a violation of this paragraph. Prosecutions commenced under this paragraph shall not be placed on file or continued without a finding.

SECTION 3. Section 24 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 64 to 67, inclusive, lines 98 to 100, inclusive, lines 132 to 134, inclusive, and in lines 165 to 168, inclusive, the words ", unless otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three".

SECTION 4. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 352 and 353, the words "six months" and inserting in place thereof the following words:- 1 year.

SECTION 5. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 364, the words "one year" and inserting in place thereof the following words:- 18 months.

SECTION 6. Subparagraph (2) of paragraph (c) of subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by adding the following sentence:- A mandatory restriction on a hardship license granted by the registrar under this subparagraph shall be that such person have an ignition interlock device installed on each vehicle owned, each vehicle leased and each vehicle operated by the licensee for the duration of the hardship license.

SECTION 6A. Said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out subparagraph (4) and inserting in place thereof the following subparagraph:-

(4) In any prosecution commenced pursuant to this section, introduction into evidence of a prior conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of corrections, the department of correction, or the registry, shall be prima facie evidence that the defendant before the court had been convicted previously or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the commonwealth to prove the defendant's commission of any prior convictions described therein. The commonwealth shall not be required to introduce any additional corroborating evidence, nor live witness testimony to establish the validity of such prior convictions.

SECTION 7. Subparagraph (3) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by adding the following sentence:- A mandatory restriction on a hardship license granted by the registrar under this subparagraph shall be that such person have an ignition interlock device installed on each vehicle owned, each vehicle leased and each vehicle operated by the licensee for the duration of the hardship license.

SECTION 8. Subparagraph (3-½) of said paragraph (c) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by adding the following sentence:- A mandatory restriction on a hardship license granted by the registrar under this subparagraph shall be that such person have an ignition interlock device installed on each vehicle owned, each vehicle leased and each vehicle operated by the licensee for the duration of the hardship license.

SECTION 9. Paragraph (f) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the subparagraph (1) and inserting in place thereof the following subparagraph:-

(1) Whoever operates a motor vehicle upon any way or in any place to which the public has right to access, or upon any way or in any place to which the public has access as invitees or licensees, shall be deemed to have consented to submit to a chemical test or analysis of his breath or blood in the event that he is arrested for operating a motor vehicle while under the influence of intoxicating liquor; provided, however, that no such person shall be deemed to have consented to a blood test unless such person has been brought for treatment to a medical facility licensed under the provisions of section 51 of chapter 111 ; and provided, further, that no person who is afflicted with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be deemed to have consented to a withdrawal of blood. Such test shall be administered at the direction of a police officer, as defined in section 1 of chapter 90C, having reasonable grounds to believe that the person arrested has been operating a motor vehicle upon such way or place while under the influence of intoxicating liquor. 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 a period of at least 180 days and up to a lifetime loss, 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 years or who has been previously convicted of a violation under this section, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L or subsection (a) of section 8 of chapter 90B, section 8A or 8B of said chapter 90B, or section 13½ of chapter 265 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 3 years for such refusal; provided, further, that any person previously convicted of 2 such violations shall have his license or right to operate suspended forthwith

for a period of 5 years for such refusal; and provided, further, that a person previously convicted of 3 or more such violations shall have his license or right to operate suspended forthwith for life based upon such refusal. If a person refuses to submit to any such test or analysis after having been convicted of a violation of section 24L, the registrar shall suspend his license or right to operate for 10 years. If a person refuses to submit to any such test or analysis after having been convicted of a violation of subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, or section 13½ of chapter 265, the registrar shall revoke his license or right to operate for life. If a person refuses to take a test under this paragraph, the police officer shall:

(i) immediately, on behalf of the registrar, take custody of such person's license or right to operate issued by the commonwealth;

(ii) provide to each person who refuses such test, on behalf of the registrar, a written notification of suspension in a format approved by the registrar; and

(iii) impound the vehicle being driven by the operator and arrange for the vehicle to be impounded for a period of 12 hours after the operator's refusal, with the costs for the towing, storage and maintenance of the vehicle to be borne by the operator.

The police officer before whom such refusal was made shall, within 24 hours, prepare a report of such refusal. Each report shall be made in a format approved by the registrar and shall be made under the penalties of perjury by the police officer before whom such refusal was made. Each report shall set forth the grounds for the officer's belief that the person arrested had been operating a motor vehicle on a way or place while under the influence of intoxicating liquor, and shall state that such person had refused to submit to a chemical test or analysis when requested by the officer to do so, such refusal having been witnessed by another person other than the defendant. Each report shall identify the police officer who requested the chemical test or analysis and the other person witnessing the refusal. Each report shall be sent forthwith to the registrar along with a copy of the notice of intent to suspend in a form, including electronic or otherwise, that the registrar deems appropriate. A license or right to operate which has been confiscated pursuant to this subparagraph shall be forwarded to the registrar forthwith. The report shall constitute prima facie evidence of the facts set forth therein at any administrative hearing regarding the suspension specified in this section.

The suspension of a license or right to operate shall become effective immediately upon receipt of the notification of suspension from the police officer. A suspension for a refusal of either a chemical test or analysis of breath or blood shall run consecutively and not concurrently, both as to any additional suspension periods arising from the same incident, and as to each other.

No license or right to operate shall be restored under any circumstances and no restricted or hardship permits shall be issued during the suspension period imposed by this paragraph; provided, however, that the defendant may immediately, upon the entry of a not

guilty finding or dismissal of all charges under this section, section 24G, section 24L, or section 13½ of chapter 265, and in the absence of any other alcohol related charges pending against said defendant, apply for and be immediately granted a hearing before the court which took final action on the charges for the purpose of requesting the restoration of said license. At said hearing, there shall be a rebuttable presumption that said license be restored, unless the commonwealth shall establish, by a fair preponderance of the evidence, that restoration of said license would likely endanger the public safety. In all such instances, the court shall issue written findings of fact with its decision.

SECTION 10. Subparagraph (2) of paragraph (f) of subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out clauses (ii) to (iv), inclusive, and inserting in place thereof the following 2 clauses:-

(ii) provide to each person who refuses the test, on behalf of the registrar, a written notification of suspension, in a format approved by the registrar; and

(iii) immediately report action taken under this paragraph to the registrar. Each report shall be made in a format approved by the registrar and shall be made under the penalties of perjury by the police officer. Each report shall set forth the grounds for the officer's belief that the person arrested has been operating a motor vehicle on any way or place while under the influence of intoxicating liquor and that the person's blood alcohol percentage was not less than .08 or that the person was under 21 years of age at the time of the arrest and whose blood alcohol percentage was not less than .02. The report shall indicate that the person was administered a test or analysis, that the operator administering the test or analysis was trained and certified in the administration of the test or analysis, that the test was performed in accordance with the regulations and standards promulgated by the secretary of public safety, that the equipment used for the test was regularly serviced and maintained and that the person administering the test had every reason to believe the equipment was functioning properly at the time the test was administered. Each report shall be sent forthwith to the registrar along with a copy of the notice of intent to suspend, in a form, including electronic or otherwise, that the registrar deems appropriate. A license or right to operate confiscated under this clause shall be forwarded to the registrar forthwith.

SECTION 11. The second paragraph of said subparagraph (2) of said paragraph (f) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The license suspension shall become effective immediately upon receipt by the offender of the notice of intent to suspend from a police officer.

SECTION 12. Said subparagraph (2) of said paragraph (f) of said subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out the fourth paragraph.

SECTION 13. Said chapter 90 is hereby further amended by inserting after section 24 the following section:-

Section 24½. No person whose license has been suspended in the commonwealth or

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any other jurisdiction by reason of: an assignment to an alcohol or controlled substance education, treatment or rehabilitation program; or a conviction for violating paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L, section 13½ of chapter 265, subsection (a) of section 8 of chapter 90B, section 8A or 8B of chapter 90B or, in the case of another jurisdiction, for any like offense, shall be issued a new license or right to operate or have his license or right to operate restored if he has previously been so assigned or convicted, unless a certified ignition interlock device has been installed on each vehicle owned, each vehicle leased and each vehicle operated by that person as a precondition to the issuance of a new license or right to operate or the restoration of such person's license or right to operate. A certified ignition interlock device shall be installed on all vehicles owned, leased and operated by the licensee for a period of 2 years and person restricted by a certified ignition interlock device shall have such device inspected, maintained and monitored in accordance with such regulations as the registrar shall promulgate. The registrar may, after hearing, revoke for an extended period or for life, the license of whoever removes such device or fails to have it inspected, maintained or monitored on at least 2 occasions during the period of the restricted license or right to operate if the licensee has operated or attempted to operate a vehicle with a blood alcohol level that caused the certified ignition interlock device to prohibit a vehicle from starting on at least 2 occasions or that recorded a blood alcohol level in excess of .02 on at least 2 occasions. A person aggrieved by a decision of the registrar pursuant to this section may file an appeal in the superior court of the trial court department. If the court determines that the registrar abused his discretion, the court may vacate the suspension or revocation of a license or right to operate or reduce the period of suspension or revocation as ordered by the registrar.

SECTION 14. Section 24D of said chapter 90, as so appearing, is hereby further amended by inserting after the word "glue", in line 17, the following words:-except for a person aged 17 to 21, inclusive, whose blood alcohol percentage, by weight, was not less than .20, in which case such person shall be assigned to a driver alcohol treatment and rehabilitation program known as the "14-day second offender in-home program".

SECTION 15. Section 24D of said chapter 90, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

Driver alcohol education programs utilized under the provisions of this section shall be established and administered by the department of public health in consultation with the registrar and the secretary of public safety. The department of public health may adopt rules and regulations to carry out its powers and duties to establish and administer driver alcohol education programs in the commonwealth. Any person who is qualified for a disposition under this section, and who at the time of disposition is legally domiciled out-of-state, or is a full-time student residing out-of-state, may at the discretion of the court, be assigned to an out-of-state driver alcohol education program. The out-of-state program must be licensed by the appropriate state authority in the jurisdiction where the person is legally domiciled or

is a full-time student. If the out-of-state driver alcohol education program contains fewer treatment service hours than is required by the department of public health, additional service treatment hours must be obtained to achieve equivalence with the driver alcohol education program requirement of the commonwealth.

SECTION 15A. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

Alcohol or controlled substance abuse treatment, rehabilitation program or alcohol or controlled substance abuse treatment and rehabilitation programs utilized under the provisions of this section shall include any public or private out-patient clinic, hospital, employer or union-sponsored program, self-help group, or any other organization, facility, service or program which the department of public health has accepted as appropriate for the purposes of this section. The department of public health shall prepare and publish annually a list of all such accepted alcohol treatment, rehabilitation programs and alcohol treatment and rehabilitation programs in the commonwealth, shall make this list available upon request to members of the public, and shall from time to time furnish each court in the commonwealth, the registrar, and the secretary of public safety with a current copy of such list. The list shall also include the single state authority contacts for other states that operate driver alcohol education programs.

SECTION 16. Section 24G of said chapter 90, as so appearing, is hereby amended by striking out, in line 50, the word "ten" and inserting in place thereof the following figure:- 15.

SECTION 17. Said chapter 90, is hereby further amended by inserting after section 24P the following 8 sections:-

Section 24Q. A mandatory condition of any sentence imposed for: (1) a conviction or an assignment to an alcohol or controlled substance education, treatment or rehabilitation program if evidence in the prosecution of a violation of this chapter or chapter 90B was that a person's blood alcohol percentage, by weight, was not less .20 or (2) an assignment to an alcohol or controlled substance education, treatment or rehabilitation program or a conviction for violating paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L, subsection (a) of section 8 of chapter 90B, section 8A or 8B of chapter 90B, or section 13½ of chapter 265 or, in the case of any other jurisdiction, for any like offense, if the person being sentenced has previously been so assigned or convicted of a like offense, shall be that such person complete an alcohol or drug assessment conducted by the department of public health or other court-approved program. The assessment shall include, but not be limited to, an assessment of the level of the offender's addiction to alcohol or drugs, and the department's recommended course of treatment. Such assessment and recommended course of treatment shall be reported to the offender's probation or parole officer. No person shall be excluded from an assessment for

inability to pay if the offender files an affidavit of indigency or inability to pay with the court and an investigation by the probation or parole officer confirms such indigency or establishes that such payment would cause a grave and serious hardship to the offender or his family, and the court enters written findings relative thereto. The commissioner of public health may make such rules and regulations as are necessary or proper to carry out this section.

Section 24R. (a) Notwithstanding section 24 or section 24D, the registrar shall revoke for life the license or right to operate of a person assigned to an alcohol or controlled substance education, treatment, or rehabilitation program or convicted of a violation of subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L, section 8A or 8B of chapter 90B, or section 13½ of chapter 265 who has previously been convicted of a violation of subdivision (a) of section 24 or a like violation in another jurisdiction.

(b) Notwithstanding section 24, the registrar shall revoke for life the license or right to operate of any person convicted of a violation of subdivision (a) of section 24G who has previously been assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth, or convicted of violation of paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L, subsection (a) of section 8 of chapter 90B, or section 8A or 8B of chapter 90B, section 13½ of chapter 265 or a like violation in another jurisdiction.

Section 24S. (a) Whoever, upon any way or place to which the public has a right of access, or upon any way or place to which members of the public have access as invitees or licensees, operates a motor vehicle that is not equipped with a certified functioning ignition interlock device while his license or right to operate has been restricted to operating only motor vehicles equipped with such device shall be punished by fine of not less than \$1,000 nor more than \$15,000 and by imprisonment for not less than 180 days nor more than 2½ years or by a fine of not less than \$1,000 nor more than \$15,000 and by imprisonment in the state prison for not less than 2½ years nor more than 5 years. The sentence imposed upon such person shall not be reduced to less than 150 days, nor suspended, nor shall any such person be eligible for probation, parole or furlough or receive any deduction from his sentence for good conduct until he shall have served 150 days of such sentence. The commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at that institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the

recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction. The defendant may serve all or part of such 150-day sentence, to the extent such resources are available, in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

(b) For the purposes of this section the term "certified ignition interlock device" shall mean an alcohol breath screening device that prevents a vehicle from starting if it detects a blood alcohol concentration over a preset limit of .02 or 20 mg of alcohol per 100 ml of blood.

Section 24T. (a) Whoever interferes with or tampers with a certified ignition interlock device, with the intent to disable such device, shall be punished by imprisonment in the house of correction for not less than 6 months nor more than 2½ years or by imprisonment in the state prison for not less than 3 years nor more than 5 years.

(b) For the purposes of this section the term "certified ignition interlock device" shall mean an alcohol breath screening device that prevents a vehicle from starting if it detects a blood alcohol concentration over a preset limit of .02 or 20 mg of alcohol per 100 ml of blood.

Section 24U. (a)(1) Whoever knowingly breathes into a certified ignition interlock device as defined in section 24T or starts a motor vehicle equipped with such a device for the purpose of providing an operable motor vehicle to a person whose license or right to operate a vehicle is restricted to the operation of vehicles equipped with a certified ignition interlock device shall be punished by a fine not less than \$1,000 nor more than \$5,000 or imprisonment in a house of correction for not less than 6 months nor more than 2½ years in the house of correction and, for a second or subsequent conviction, by imprisonment in a state prison for not less than 3 nor more than 5 years.

(2) A certified copy of an acknowledgement of the existence and terms of certified ignition interlock device restriction, executed by a person alleged to have violated this section shall be admissible as evidence to prove the existence of such knowledge by the person who executed the document.

Section 24V. (a) Whoever violates paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L, subsection (a) of section 8 of chapter 90B, or section 8A or 8B of chapter 90B, or section 13½ of chapter 265 with a child 14 years of age or younger in the motor vehicle or vessel shall also be guilty of child endangerment while operating a motor vehicle or vessel under the influence and shall be punished by an enhanced penalty of a fine of not less than \$1,000 nor more than \$5,000 and by imprisonment in the house of correction for not less than 90 days nor more than 2½ years. If a defendant has previously violated this subsection or a like offense in another jurisdiction preceding the date of the commission of the offense for which he has been convicted, he shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and

by imprisonment in the house of correction for not less than 6 months nor more than 2½ years or by imprisonment in state prison for not less than 3 years but not more than 5 years. The sentence of imprisonment imposed upon such person shall not be reduced to less than 6 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served at least 6 months of such sentence but the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at the institution; or to engage in employment pursuant to a work release program. A sentence imposed under this subsection shall be served consecutively to and not concurrently with the predicate violation of said paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, subsection (b) of section 24G, section 24L, subsection (a) of section 8 of chapter 90B, or section 8A or 8B of chapter 90B, section 13½ of chapter 265. Section 87 of chapter 276 and sections 1 to 9, inclusive, of chapter 276A shall not apply to a person charged with a violation of this subsection. Prosecutions commenced under this subsection shall not be placed on file or continued without a finding.

(b) The registrar shall suspend the license or right to operate of person who violates this section for a period of 1 year for a first offense, and for a period of 3 years for a second or subsequent violation.

Section 24W. (a) A motor vehicle or vessel owned by a person who has been assigned to an alcohol or controlled substance education, treatment or rehabilitation program or who was convicted of a violation of paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L, subsection (a) of section 8 of chapter 90B, section 8A or 8B of chapter 90B, or section 13½ of chapter 265 or, in the case of another jurisdiction, for any like offense, if owned by such operator, may be forfeited to the commonwealth if such person has been so assigned or so convicted previously at least 3 times.

(b) A district attorney or the attorney general may petition the superior or district court in the name of the commonwealth in the nature of a proceeding in rem to order forfeiture of such motor vehicle or vessel. The petition shall be filed in the court having jurisdiction over the criminal proceeding brought under this section. The proceeding shall be deemed a civil suit in equity. In all such actions where the motor vehicle or vessel is jointly owned before the date of the second or subsequent operating under the influence offense committed by the defendant by either a parent, spouse, child, grandparent, brother, sister, or parent of the spouse living in the defendant's household, the commonwealth shall have the burden of proving to the court the existence of probable cause to institute the action,

and the claimant shall have the burden of proving to the court's satisfaction that the property is not forfeitable because the claimant is dependent on the motor vehicle or vessel for his livelihood or the maintenance of his family. The court shall order the commonwealth to give notice by certified or registered mail to the owners of the motor vehicle or vessel and to such other persons or entities who appear to have an interest therein, and the court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. Upon the motion of an owner of the motor vehicle or vessel, the court may continue the hearing on the petition pending the outcome of a criminal trial related to a charge of operating under the influence in violation of this chapter or chapter 90B. During the pendency of the proceedings, the court may issue at the request of the commonwealth *ex parte* any preliminary order or process as is necessary to seize or secure the property for which forfeiture is sought and to provide for its custody. Process for seizure of the property shall issue only upon a showing of probable cause, and the application therefore and the issuance, execution and return thereof shall be subject to chapter 276, as applicable.

(c) At a hearing under this section, the court shall hear evidence and make findings of fact and conclusions of law, and shall thereon issue a final order from which the parties shall have such right of appeal as from a decree in equity. No forfeiture under this section shall extinguish a perfected security interest held by a creditor in the property at the time of the filing of the forfeiture action. In all actions where a final order results in forfeiture, the final order shall provide for disposition of the property by the commonwealth or any subdivision thereof in any manner not prohibited by law, including official use by an authorized law enforcement or other agency, or at sale at public auction or by competitive bidding, with such sale being conducted by the office of the district attorney or the attorney general that obtained the final order of forfeiture.

(d) The final order of the court shall provide that 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 of any such sale shall be distributed equally among the prosecuting district attorney or attorney general, the city, town or state police department involved in the forfeiture and the Victims of Drunk Driving Trust Fund established in section 66 of chapter 10. If more than 1 department was substantially involved in the seizure, the court having jurisdiction over the forfeiture proceeding shall distribute the portion for law enforcement equitably among the departments.

(e) There shall be established within the office of the state treasurer a separate Operating Under the Influence Deterrent Trust Fund for each district attorney and for the attorney general. All monies and proceeds received by a prosecuting district attorney or attorney general pursuant to this section shall be deposited in the fund and shall be expended without further appropriation to defray the costs of investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants, or for such other law enforcement purposes as the district attorney or attorney general deems appropriate. Any program seeking to be an eligible recipient of the funds shall file an annual audit report with the local district attorney and attorney general. Such report shall include,

but not be limited to, a listing of the assets, liabilities, itemized expenditures and board of directors of the program. Within 90 days of the close of the fiscal year, each district attorney and the attorney general shall file an annual report with the house and senate committees on ways and means on the use of the monies in the trust fund for the purposes of deterring operating under the influence programs.

(f) All moneys and proceeds received by a police department shall be deposited into the fund and shall be expended without further appropriation to defray the costs of investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants, or to accomplish such other law enforcement purposes as the chief of police of such city or town, or the colonel of state police deem appropriate, but such funds shall not be considered a source of revenue to meet the operating needs of such department.

Section 24X. The registration of a motor vehicle owned by a person who is assigned to an alcohol or controlled substance education, treatment or rehabilitation program or who is convicted of a violation of paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of section 24G, section 24L, subsection (a) of section 8 of chapter 90B, section 13½ of chapter 265, or section 8A or 8B of chapter 90B, or, in the case of another jurisdiction, for any like offense, may be cancelled and the registration plates for such vehicle seized for the period of the suspension or revocation of the license or right to operate due to such assignment or conviction, if the person has been so assigned or so convicted previously at least 2 times. No new registration shall be issued to such person during the period of the suspension or revocation of the license or right to operate.

SECTION 18. Section 139 of chapter 266 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

Whoever takes and carries away the registration plate that is attached to the vehicle of another or is assigned by the registry of motor vehicles to another shall be punished by a fine of not less than \$500 nor more than \$1,000 or imprisonment in the house of correction for not more than 2½ years, or both.

SECTION 19. The registrar of motor vehicles shall promulgate regulations consistent with this act which shall include, but not be limited to:-

(1) certification procedures for certified ignition interlock devices for use in the commonwealth;

(2) approval procedures for certified ignition interlock device installers who propose to install functioning ignition interlock devices in conformity with this section and regulations of the registry;

(3) approve ignition interlock device servicing and monitoring entities and require that such entities regularly report ignition interlock device service and monitoring results to the registry of motor vehicles;

(4) develop a warning label that ignition interlock device installers shall prominently affix on all certified ignition interlock devices installed; provided, however, that the warning label shall provide the penalties for tampering or attempting to circumvent operation of the device, and for knowingly breathing into an ignition interlock device for the purpose of making a car operational for use by a ignition interlock device licensee;

(5) require proof of the installation of a functioning certified ignition interlock device by an approved installer on all vehicles owned, leased or operated by any person applying for a hardship license pursuant to section 24 of chapter 90 of the General Laws or by any person seeking the restoration of his license that was suspended due to a conviction of: paragraph (a) of subdivision (1) of section 24; subsection (a) of section 24G; operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G; section 24L; section 8, 8A or 8B of chapter 90B, or section 13½ of chapter 265; provided that any such conviction is a second or subsequent conviction before any such license is issued;

(6) require an ignition interlock device restriction licensee, as a continuing condition of such license, submit proof:-

(a) of inspection of the certified ignition interlock device for accurate operation by an entity approved by the registrar not less than once every 30 days for the duration of any license ignition interlock device restriction.

(b) that the ignition interlock device shall be monitored, maintained and serviced not less than every 30 days by an entity approved by the registrar; and

(c) that the costs to install and maintain the certified ignition interlock device be borne by the operator; and

(7) cause registry records to reflect an ignition interlock device restriction on the records of any such licensee and the duration thereof.

(8) require that any operation in violation of the ignition interlock restriction or any violation of the required inspection, monitoring or reporting requirements shall result in permanent revocation, after hearing, of a hardship license and an additional 10 year license suspension, during which such person shall not be eligible for a hardship license.

(9) require, as a precondition to issuing to any ignition interlock device restricted license, the execution of an acknowledgment signed under penalty of perjury by each other licensed operator residing with a person seeking a hardship license or the restoration of his license and who is required to have ignition interlock devices on all vehicles owned, leased or operated by him that they know and understand that: the person issued an ignition interlock device restricted license may not operate a vehicle that is not equipped with an ignition interlock device and that to breathe into an ignition device or start a motor vehicle for such person in order to provide such person with an operable motor vehicle is punishable by incarceration. Such acknowledgement shall be admissible in any prosecution of section 24U of chapter 90 of the General Laws and shall be prima facie evidence of such knowledge by the person who executed such document.

SECTION 20. Chapter 265 of the General Laws is hereby amended by inserting after section 13 the following section:-

Section 13½. Whoever commits manslaughter while operating a motor vehicle in violation of paragraph (a) of subdivision (1) of section 24 of chapter 90 or section 8A of chapter 90B, shall be punished by imprisonment in the state prison for not less than 5 years and not more than 20 years, and by a fine of not more than \$25,000. The sentence of imprisonment imposed upon such person shall not be reduced to less than 5 years, nor suspended, nor shall any such person be eligible for probation, parole or furlough or receive a deduction from his sentence for good conduct until he shall have served 5 years of such sentence. The commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this section a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. Upon receipt of notice of a conviction under this section, the registrar may suspend the license or right to operate of such person for any extended period up to life, provided that such suspension be at least a 15 year period. A person aggrieved by a decision of the registrar pursuant to this section may file an appeal in the superior court of the trial court department. If the court determines that the registrar abused his discretion, the court may vacate the suspension or revocation of a license or right to operate and reduce the period of suspension or revocation as ordered by the registrar, but in no event may the reduced period of suspension be for less than 15 years.

SECTION 21. Any assignment to an alcohol or controlled substance education, treatment or rehabilitation program or conviction rendered before the effective date of this act shall be considered a previous assignment or conviction for the purposes of this act.

SECTION 22. Subsection (c) of section 12 of chapter 90 of the General Laws, as inserted by section 1, sections 6, 7, 8, 13, 14, section 24S, 24T, and 24U of said chapter 90 of the General Laws, as inserted by section 17, and section 19 shall take effect on January 1, 2006. All other provisions shall take effect upon the effective date of this act.

Approved October 28, 2005.

Chapter 123. AN ACT RELATIVE TO THE INSTALLATION OF CARBON MONOXIDE ALARMS AND SMOKE DETECTORS IN RESIDENTIAL BUILDINGS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 10A of chapter 148 of the General Laws,

as appearing in the 2004 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following 4 sentences:- The head of the fire department or the marshal may revoke any such permit for cause. A fee of \$25 may be charged by the head of the fire department for any permit granted under this section, unless otherwise set in a town by the board of selectmen or town council, or in a city by the mayor, but such fee shall not exceed \$50 except as provided in this paragraph. If a smoke detector inspection, conducted pursuant to section 26F, and a carbon monoxide alarm inspection, conducted pursuant to section 26F½, are conducted simultaneously, the owner shall not be subject to an additional fee for the carbon monoxide alarm inspection. The fee for either a carbon monoxide alarm inspection or a smoke detector inspection, conducted separately, shall not exceed: \$50 for a single-family dwelling or a single dwelling unit; \$100 for a 2-family dwelling; \$150 for any building or structure with 6 or fewer residential units; and \$500 for any building or structure with more than 6 units.

SECTION 2. Section 26E of said chapter 148, as so appearing, is hereby amended by striking out, in line 1, the words "In any city or town which accepts this subsection," and inserting in place thereof the following word:- All.

SECTION 3. Section 27A of said chapter 148, as so appearing, is hereby amended by inserting after the word "protection", in line 4, the following words:- or carbon monoxide detection and alarm.

SECTION 4. Said chapter 148 is hereby further amended by inserting after section 26F the following section:-

Section 26F½. (a) Every dwelling, building or structure, including those owned or operated by the commonwealth, occupied in whole or in part for residential purposes, that: (1) contains fossil-fuel burning equipment including, but not limited to, a furnace, boiler, water heater, fireplace or any other apparatus, appliance or device that burns fossil fuel; or (2) incorporates enclosed parking within its structure shall be equipped by the owner with working, approved carbon monoxide alarms in conformance with the requirements of the board of fire prevention regulations; provided, however, that such requirements shall include, but not be limited to, a requirement that a landlord or superintendent shall install either approved monitored battery-powered alarms or approved electrical wiring alarms as defined by the board, as are required to make the alarms operational at the beginning of any rental period by lease or otherwise and shall maintain and, if necessary, replace batteries or such battery-operated or electric hardwired carbon monoxide alarms annually thereafter to insure their continued operability.

(b) The board of fire prevention regulations shall promulgate such regulations as may be necessary to effectuate this section including, but not limited to, the type, installation, location, maintenance and inspectional requirements of carbon monoxide alarms.

(c) Every dwelling, building or structure, occupied in whole or in part for residential purposes, shall, upon sale or transfer of such dwelling, building or structure, be inspected by the head of the fire department for compliance with the requirements of this section.

(d) The state building code may impose stricter carbon monoxide alarm requirements for new construction or dwellings, buildings, or structures substantially renovated so as to constitute the equivalent of new construction. Every such dwelling building or structure, occupied in whole or in part for residential purposes, shall, upon sale or transfer of such dwelling, building or structure, be inspected by the head of the fire department for compliance with the carbon monoxide alarm requirements of the state building code in effect on the date of the issuance of the relevant building permit.

(e) The head of the fire department shall enforce this section.

(f) The department of public health shall promulgate such rules and regulations as may be necessary to effectuate subsection (a) into the state sanitary code as established under section 127A of chapter 111.

SECTION 5 Subsection (a) of section 26F½ of chapter 148 of the General Laws, shall take effect on March 31, 2006, except as to any dwelling, building or structure for which the installation of hardwired carbon monoxide alarms is required or owned or operated by the commonwealth or any local housing authority. Said subsection (a) of said section 26F½ of said chapter 148 shall apply to such dwellings, buildings and structures on and after January 1, 2007.

Approved November 4, 2005.

Chapter 124. AN ACT AUTHORIZING THE CITY OF QUINCY TO ESTABLISH SENIOR CITIZEN SAFETY ZONES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 2 of chapter 85 of the General Laws or any other general or special law or regulation to the contrary, the city of Quincy may establish by ordinance, on public ways under the care and custody of the city of Quincy, senior citizen safety zones, which may be an area adjacent to a facility which may be publicly or privately owned and used as senior citizen housing, a hospital, nursing home or assisted living facility, a community center of which senior activities are conducted on a regular basis or a congregate elderly facility approved as a planned unit development by the city of Quincy.

SECTION 2. In a senior citizen safety zone, the city of Quincy may, by ordinance under the direction of the traffic engineer, take necessary action to reduce vehicular speed by reducing speed limits to not less than 20 miles per installing signals or appropriate signs and restriping roadways. The traffic engineer may adopt and amend rules and regulations to carry out this act.

SECTION 3. The city of Quincy shall notify the state traffic engineer upon the establishment of a senior citizen safety zone. The city shall notify the state traffic engineer of any reduction of speed on a functionally classified local roadway.

SECTION 4. This act shall not apply to any state highway, numbered route or functionally-classified arterial.

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

Approved November 4, 2005.

Chapter 125. AN ACT PROVIDING DEATH BENEFITS FOR SURVIVORS OF VOLUNTEER FIREFIGHTERS AND OTHER VOLUNTEER PUBLIC SAFETY PERSONNEL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide death benefits for volunteer firefighters and other volunteer public safety personnel, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2006, the sum set forth in section 2 of this act 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 the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2006. This sum shall be in addition to any amounts previously appropriated and made available for the purposes of this item.

SECTION 2. 0612-1012 For a one-time transfer from the General Fund to the Pension Fund to pay for the cost of an annuity for the family of firefighter Martin H. McNamara V, pursuant to section 3 of this act.....\$650,000.

SECTION 3. The state treasurer acting through the Worcester regional retirement board shall pay from the pension fund the proceeds of the annuity funded in item 0612-1012 of section 2 of this act to Claire B. McNamara, the surviving spouse of firefighter Martin H. McNamara V, so long as she remains unmarried, an accidental death benefit allowance to consist of an annuity equal to two-thirds of the average annual salary of a first-year career firefighter in the local area. The average shall be determined by a survey of not fewer than 3 surrounding towns which are member units of the Worcester Regional Retirement System, such towns as determined by the Worcester Regional Retirement System, in consultation with the public employee retirement administration commission. The annuity shall be increased by \$2,600 for each child of firefighter Martin H. McNamara V who is under 18 years of age or 22 years of age if a full-time student, or who is over 18 years of age and is physically or mentally incapacitated from earning. If there is no surviving spouse or the surviving

spouse later dies, the annuity shall be paid to the eligible children or legal guardian in equal shares. If the surviving spouse marries, an annuity of \$12,000 should be made annually to each eligible child. For the purposes of this act, the words, "full-time student" shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean any school, college or university that is licensed, approved or accredited, as the case may be, in the state in which it is located. Any annuity granted under this section shall be increased by the same percentage allowed to other retirees or their dependents.

If any unused portion of the proceeds of the annuity is to be returned to the treasurer, he shall transfer such moneys to the General Fund.

SECTION 4. Chapter 32 of the General Laws is hereby amended by inserting after section 89D, as appearing in the 2004 Official Edition, the following section:-

Section 89E. (a) Notwithstanding section 27C of chapter 29 of the General Laws or any other general or special law to the contrary, any city, town, or district that utilizes volunteer emergency service providers shall provide 1 of the following 3 accidental death benefits for the surviving spouse of a volunteer emergency service provider. If any call, volunteer, auxiliary, intermittent, or reserve firefighter, or a call, volunteer, auxiliary, intermittent, or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, while in the performance of his duties and as a result of an accident while responding to or returning from an alarm of fire or any emergency, or as the result of an accident involving a fire department vehicle, which the firefighter or emergency medical service provider is operating or in which he is riding, or while at the scene of a fire or any emergency is killed or sustains injuries which results in his death; or an auxiliary, intermittent, special, part-time, or reserve police officer who, while in the performance of his duties, and as a result of an assault on his person, or as a result of an accident involving a police department vehicle which he is operating or in which he is riding in the performance of his duties as a police officer is killed or sustains injuries which result in his death, his surviving spouse shall be eligible for 1 of the following accidental death benefits as selected by the city, town, or district.

(1) The city, town, or district shall pay to the surviving spouse an accidental death benefit in the form of an annuity equal to at least 2/3 of but not more than 100 per cent of the annual rate of regular compensation payable to a regular or permanent member of the police or fire department in the first year of service or, if the police or fire department does not have any regular or permanent members, an annuity equal to at least 2/3 of but not more than 100 per cent of the annual average compensation payable to a regular or permanent firefighter, emergency medical services provider or police officer in the local area; this average to be determined by a survey of 3 surrounding cities, towns or districts, as determined by the public employee retirement administration commission. The annuity shall be increased annually by an amount equal to the percentage increase in the cost of living determination made by the general court for that year under section 102.

(2) The city, town or district shall establish an insurance policy that provides a one-time accidental death benefit of \$500,000, indexed for inflation.

(3) The city, town or district shall establish an insurance policy that provides an annuity payment of not less than 2/3 of but not more than 100 per cent of the annual rate of regular compensation payable to a regular or permanent member of the police or fire department in the first year of service or, if the police or fire department does not have any regular or permanent members, the accidental death benefit to the surviving spouse shall be based on the annual average compensation payable to a regular or permanent firefighter, emergency medical services provider or police officer in the local area; such average to be determined by a survey of 3 surrounding cities, towns or districts, as determined by the public employee retirement administration commission.

(b) If there is no surviving spouse or if the surviving spouse later dies, the benefit that would have been payable under this section to the surviving spouse will be payable to the surviving minor children until they reach the age of majority and to any adult children of the deceased volunteer emergency services provider who are physically or mentally incapacitated from earning. These payments will be on a per capita basis among any minor or incapacitated children. The benefits payable under this section are subject to judgments or orders for child support of any court of competent jurisdiction.

(c) The surviving spouse or, if there is no surviving spouse, the legal representative of any minor or disabled children shall elect the benefits provided under this section or any accidental death benefits provided by this chapter, except section 100A, to which he may be entitled. This election shall be made in writing and shall not be subject to change or revocation after the first payment of any benefit under this section.

(d) As used in this section, volunteer emergency services provider shall mean a call, volunteer, auxiliary, intermittent or reserve firefighter, or a call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, or an auxiliary, intermittent, special, part-time or reserve police officer.

(e) Nothing in this section shall preclude a city, town or district from entering into an agreement with 1 or more governmental units for the purpose of pooling resources to pay for accidental death benefits for the surviving spouse of a volunteer emergency services provider who sustains injuries or illnesses, while in the performance of his duties, which are the direct and proximate cause of his death.

SECTION 5. Section 100A of said chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "firefighter, public prosecutor, police officer or corrections officer" and inserting in place thereof the following:- deceased public safety employee.

SECTION 6. Paragraph (c) of said section 100A of said chapter 32, as so appearing, is hereby further amended by adding the following sentence:- As used in this section, the words "deceased public safety employee" shall mean any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve

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emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152 , any police officer, any auxiliary, intermittent, special, part-time or reserve police officer, any public prosecutor, or any corrections officer.

SECTION 7. Said section 100A of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 16 and 17, in lines 18 and 19, and in lines 19 and 20, the words "firefighter, public prosecutor, police officer or corrections officer" and inserting in place thereof, in each instance, the following words:- deceased public safety employee.

SECTION 8. Sections 1, 2 and 3 shall take effect upon passage of this act.

SECTION 9. The remaining sections of this act shall take effect on July 1, 2006.

Approved November 8, 2005.

Chapter 126. AN ACT REMOVING THE RESIDENCY REQUIREMENT FOR THE TOWN COUNSEL OF THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. The first sentence of section 28 of chapter 503 of the acts of 1952 is hereby amended by striking out the words "who is a resident of said town".

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

Approved November 10, 2005.

Chapter 127. AN ACT EXEMPTING THE TOWN OF WINTHROP FROM CERTAIN PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. For the purpose of classifying positions under the civil service law and rules, the town of Winthrop, notwithstanding its home rule charter establishing its form of government, shall continue to be governed by section 52 of chapter 31 of the General Laws and not by section 51 of said chapter 31.

Nothing in this act shall be construed to affect the civil service status of any person currently covered by civil service law and rules.

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

Approved November 10, 2005.

Chapter 128. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT TO LEASE A CERTAIN PARCEL OF LAND IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

The division of capital asset management and maintenance, in accordance with section 279A of chapter 149 of the acts of 2004, inserted by chapter 495 of the acts of 2004, and subject to the approval of the department of conservation and recreation, may lease to Community Rowing, Inc. a parcel of land for operating a public access rowing program and storing shells and trailers for use by this program. This parcel of land is currently known as "Daly East" and is more particularly described on a plan entitled "Plan Showing Lease Area for Community Rowing, Nonantum Road, Boston (Brighton), Mass.", dated June 17, 2005, and prepared by Harry R. Feldman, Inc. The commissioner of capital asset management and maintenance may make minor revisions to this plan for the parcel of land, and may sign the lease without any further approval of the general court but subject to all other provisions of said section 279A.

Approved November 10, 2005.

Chapter 129. AN ACT ESTABLISHING THE MASSACHUSETTS PRINCIPAL AND INCOME ACT.

Be it enacted, etc., as follows:

SECTION 1. Section 27 of chapter 197 of the General Laws is hereby repealed.

SECTION 2. Sections 21A, 21B and 22 of chapter 203 of the General Laws are hereby repealed.

SECTION 3. Sections 24A and 24B of said chapter 203 are hereby repealed.

SECTION 4. The General Laws are hereby amended by inserting after chapter 203C the following chapter:-

Chapter 203D.

Section 1. This chapter shall be known as and may be cited as The Massachusetts Principal and Income Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Accounting period", a calendar year unless another 12-month period is selected by a fiduciary. The term includes a portion of a calendar year or other 12-month period that begins when an income interest begins or ends when an income interest ends.

"Asset-backed security", an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive from the

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collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which section 10 or 18 applies.

"Beneficiary", includes, in the case of a decedent's estate, an heir, legatee and devisee, and, in the case of a trust, an income beneficiary, a remainder beneficiary and any other distributee.

"Depreciation", a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than 1 year.

"Derivative", a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

"Entity", a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund or any other organization in which a trustee has an interest other than a trust or estate to which section 11 applies, a business or activity to which section 12 applies, or an asset-backed security to which section 24 applies.

"Fiduciary", a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

"Income", money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided herein.

"Income beneficiary", a person to whom net income of a trust is or may be payable.

"Income interest", the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.

"Liquidating asset", an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold, patent, copyright, royalty right and right to receive payments during a period of more than 1 year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term shall not include a payment subject to section 18, resources subject to section 20, timber subject to section 21, an activity subject to section 23, an asset subject to section 24, or any asset for which the trustee establishes a reserve for depreciation under section 27.

"Mandatory income interest", the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

"Net income", the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this chapter to or from income during the period.

"Payment", a payment that a trustee may receive over a fixed number of years or during the life of 1 or more individuals because of services rendered or property transferred

to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

"Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency or instrumentality; public corporation, or any other legal or commercial entity.

"Principal", property held in trust for distribution to a remainder beneficiary when the trust terminates.

"Remainder beneficiary", a person entitled to receive principal when an income interest ends.

"Terms of a trust", the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

"Trustee", includes an original, additional or successor trustee, whether or not appointed or confirmed by a court.

"Undistributed income", net income received before the date on which an income interest ends. It does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

Section 3. (a) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of this chapter, a fiduciary:

(1) shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this chapter;

(2) may administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this chapter;

(3) shall administer a trust or estate in accordance with this chapter if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

(4) shall add a receipt or charge a disbursement to principal if the terms of the trust and this chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.

(b) In exercising the power to adjust under subsection (a) of section 4 or a discretionary power of administration regarding a matter within the scope of this chapter, whether granted by the terms of a trust, a will, or this chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor 1 or more of the beneficiaries. A determination in accordance with this chapter is presumed to be fair and reasonable to all of the beneficiaries.

Section 4. (a) A trustee may adjust between principal and income if the trustee considers it necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying the rules in subsection (a) of section 3, that the trustee is unable to comply with subsection (b) of said section 3.

(b) In deciding whether to exercise the power conferred by subsection (a), a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

(1) the nature, purpose and expected duration of the trust;

(2) the intent of the settlor;

(3) the identity and circumstances of the beneficiaries;

(4) the needs for liquidity, regularity of income and preservation and appreciation of capital;

(5) the nature and character of the assets held in the trust, if an asset is used by a beneficiary, and whether an asset was purchased by the trustee or received from the settlor;

(6) the net amount allocated to income under the other sections of this chapter and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;

(7) whether the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and if the trustee has exercised a power from time to time to invade principal or accumulate income;

(8) the actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and

(9) the anticipated tax consequences of an adjustment.

(c) A trustee may not make an adjustment:

(1) that diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;

(2) that reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(3) that changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(4) from any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;

(5) if possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;

(6) if possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

(7) if the trustee is a beneficiary of the trust; or

(8) if the trustee is not a beneficiary, but the adjustment would benefit the trustee directly or indirectly.

(d) If clause (5), (6), (7) or (8) of subsection (c) applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

(e) A trustee may release the entire power conferred by subsection (a) or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in clauses (1) to (6), inclusive, of subsection (c) or clause (8) of said subsection (c) or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in said subsection (c). The release may be permanent or for a specified period, including a period measured by the life of an individual.

(f) Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection (a).

Section 5. (a) A court shall not change a trustee's decision to exercise or not to exercise a discretionary power conferred by this chapter unless it determines that the decision was an abuse of the trustee's discretion. A court shall not determine that a trustee abused his or her discretion merely because the court would have exercised the discretion in a different manner or would not have exercised the discretion.

(b) The decisions to which subsection (a) applies include:-

(1) A determination under subsection (a) of section 4 of whether and to what extent an amount should be transferred from principal to income or income to principal.

(2) A determination of the factors that are relevant to the trust and its beneficiaries and the weight, if any, to be given to those factors in deciding whether to exercise the power conferred by subsection (a) of section 4.

(c) If a court determines that a trustee has abused his discretion, the remedy shall be to restore the income and remainder beneficiaries to the positions they would have occupied if the trustee had not abused his discretion, according to the following rules:-

(1) If the abuse of discretion has resulted in no distribution to a beneficiary or a distribution that is too small, the court shall require the trustee to distribute to the beneficiary

an amount that the court determines will restore the beneficiary, in whole or in part, to his appropriate position.

(2) If the abuse of discretion has resulted in a distribution to a beneficiary that is too large, the court shall restore the beneficiaries, the trust, or both, in whole or in part to their appropriate positions by requiring the trustee to withhold an amount from 1 or more future distributions to the beneficiary who received the distribution that was too large or requiring that beneficiary to return some or all of the distribution to the trust.

(3) If the court is unable, after applying paragraphs (1) and (2), to restore the beneficiaries, the trust, or both, to the positions they would have occupied if the trustee had not abused his discretion, the court may require the trustee to pay an appropriate amount from his own funds to one or more of the beneficiaries or the trust or both.

(d) A trustee may seek court determination as to whether a proposed exercise or non-exercise by the trustee of a discretionary power will result in an abuse of discretion. A beneficiary objecting to the relief sought shall have the burden of establishing that an abuse of discretion will result.

Section 6. After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules shall apply:

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under this chapter which apply to trustees and the rules in paragraph (5). The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under which apply to trustees and by:

(i) including in net income all income from property used to discharge liabilities;

(ii) paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants and fiduciaries, court costs and other expenses of administration, and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax, marital or charitable deduction only if the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(iii) paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright, the interest on the amount, if any, provided by the will, the terms of the trust or applicable law from net income determined under paragraph (2) or from principal if the net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest on the amount is provided for by the terms of

the trust or applicable law, the fiduciary shall distribute the interest to which the beneficiary would be entitled under applicable law as if the pecuniary amount were required to be paid under a will.

(4) A fiduciary shall distribute the net income remaining after distributions required by paragraph (3) in the manner described in section 2 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(5) A fiduciary may not reduce principal or income receipts from property described in paragraph (1) because of a payment described in section 5 if the will, the terms of the trust or applicable law requires the fiduciary to make the payment from assets other than the property or if the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on or after the date of a decedent's death or an income interest's terminating event and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

Section 7. (a) Each beneficiary described in paragraph (4) of section 6 is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

(b) In determining a beneficiary's share of net income, the following rules apply:

(1) the beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations;

(2) the beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust;

(3) the beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(4) the distribution date, for purposes of this section, may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(c) If a fiduciary does not distribute all of the collected but undistributed net income

to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(d) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

Section 8. (a) An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

(b) An asset becomes subject to a trust:

(1) on the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

(2) on the day after a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

(3) on the day after an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

(c) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (d), even if there is an intervening period of administration to wind up the preceding income interest.

(d) An income interest ends on the day an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

Section 8A. (a) A trustee shall allocate an income receipt or disbursement other than one to which paragraph (1) of section 6 applies to principal if its due date occurs on or before the date on which a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

(b) A trustee shall allocate an income receipt or disbursement to income if its due date occurs after the date on which a decedent dies or on or after an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing on or before the date on which a decedent dies or before an income interest begins shall be allocated to principal and the balance shall be allocated to income.

(c) An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which section 10 applies are considered to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that shall be paid at regular

intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

Section 9. (a) When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than 5 per cent of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked shall be added to principal.

(b) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate or other tax requirements.

Section 10. (a) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(b) A trustee shall allocate the following receipts from an entity to principal:

(1) property other than money;

(2) money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(3) money received in total or partial liquidation of the entity; and

(4) money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

(c) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

Section 11. A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in the trust to a trustee, section 10 or 24 applies to a receipt from the trust.

Section 12. (a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

(b) A trustee who accounts separately for a business or other activity may determine if its net cash receipts must be retained for working capital, the acquisition or replacement

of fixed assets and other reasonably foreseeable needs of the business or activity, and if the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

(c) Activities for which a trustee may maintain separate accounting records include:

- (1) retail, manufacturing, service, and other traditional business activities;
- (2) farming;
- (3) raising and selling livestock and other animals;
- (4) management of rental properties;
- (5) extraction of minerals and other natural resources;
- (6) timber operations; and
- (7) activities to which section 23 applies.

Section 13. If not allocated to income, a trustee shall allocate to principal:

- (1) to the extent not allocated to income under this chapter, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest or a payer under a contract naming the trust or its trustee as beneficiary;
- (2) money or other property received from the sale, exchange, liquidation or change in form of a principal asset, including realized profit;
- (3) amounts recovered from third parties to reimburse the trust because of disbursements described in clause (7) of subsection (a) of section 26 or for other reasons to the extent not based on the loss of income;
- (4) proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;
- (5) net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and
- (6) other receipts.

Section 14. If a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

Section 15. (a) An amount received as interest, whether determined at a fixed, variable or floating rate on an obligation to pay money to the trustee, including an amount received as consideration for prepayment of principal, shall be allocated to income without any provision for amortization of premium.

(b) This section shall not apply to an obligation to which section 18, 19, 20, 21, 23 or 24 applies.

Section 16. (a) Except as otherwise provided in subsection (b), a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income and to principal if the premiums are paid from principal.

(b) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to section 12, loss of profits from a business.

(c) This section shall not apply to a contract to which section 18 applies.

Section 17. If a trustee determines that an allocation between principal and income required by section 18, 19, 20, 21 or 24 is insubstantial, the trustee may allocate the entire amount to principal unless 1 of the circumstances described in subsection (c) of section 4 applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in subsection (d) of said section 4 and may be released for the reasons and in the manner described in subsection (e) of said section 4. An allocation is presumed to be insubstantial if:

(1) the amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10 per cent; or

(2) the value of the asset producing the receipt for which the allocation would be made is less than 10 per cent of the total value of the trust's assets at the beginning of the accounting period.

Section 18. (a) If a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(b) If no part of a payment is characterized as interest, a dividend or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10 per cent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not required to be made if it is made because the trustee exercises a right of withdrawal.

(c) If, to obtain an estate tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

(d) This section shall not apply to payments to which section 19 applies.

Section 19. A trustee shall allocate to income 10 per cent of the receipts from a liquidating asset and the balance to principal.

Section 20. (a) If a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income.

(2) If received from a production payment, a receipt must be allocated to income if the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal.

(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, 90 per cent shall be allocated to principal and the balance to income.

(4) If an amount is received from a working interest or any other interest not provided for in paragraph (1), (2), or (3), 90 per cent of the net amount received shall be allocated to principal and the balance to income.

(b) An amount received on account of an interest in water that is renewable shall be allocated to income. If the water is not renewable, 90 per cent of the amount shall be allocated to principal and the balance to income.

(c) This chapter applies whether or not a decedent or donor was extracting minerals, water or other natural resources before the interest became subject to the trust.

(d) If a trust owns an interest in minerals, water, or other natural resources, the trustee may allocate receipts from the interest as provided in this chapter or in the manner used by the trustee. If the trust acquires an interest in minerals, water or other natural resources, the trustee shall allocate receipts from the interest as provided in this chapter.

Section 21. (a) If a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

(1) to income if the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

(2) to principal if the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) to or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs (1) and (2); or

(4) to principal if the advance payments, bonuses, and other payments are not allocated pursuant to paragraph (1), (2), or (3).

(b) In determining net receipts to be allocated pursuant to subsection (a), a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(c) This chapter applies whether or not a decedent or transferor was harvesting timber from the property before it become subject to the trust.

(d) If a trust owns an interest in timber land, the trustee may allocate net receipts from the sale of timber and related products as provided in this chapter or in the manner used by

the trustee. If the trust acquires an interest in timber land, the trustee shall allocate net receipts from the sale of timber and related products as provided in this chapter.

Section 22. (a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under section 4 and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by subsection (a) of said section 4. The trustee may decide which action or combination of actions to take.

(b) In cases not governed by subsection (a), proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

Section 23. (a) To the extent that a trustee does not account under section 12 for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

(b) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal. An amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, shall be allocated to principal.

Section 24. (a) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

(b) If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in 1 accounting period, the trustee shall allocate the payments to principal. If a payment is 1 of a series of payments that will result in the liquidation of the trust's interest in the security over more than 1 accounting period, the trustee shall allocate 10 per cent of the payment to income and the balance to principal.

Section 25. A trustee shall make the following disbursements from income if they are not disbursements to which clause (ii) or (iii) of paragraph (2) of section 6 applies:

(1) so much of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee, and expenses for accountings, judicial proceedings or other matters that involve both the income and remainder interests as shall be determined by the trustee;

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(2) all of the other ordinary expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal and expenses of a proceeding or other matter that concerns primarily the income interest; and

(3) recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

Section 26. (a) A trustee shall make the following disbursements from principal:

(1) such of the disbursements described in clause (1) of section 25 as are not charged to income;

(2) all of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;

(3) payments on the principal of a trust debt;

(4) expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(5) premiums paid on a policy of insurance not described in clause (3) of section 25 of which the trust is the owner and beneficiary;

(6) estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and

(7) disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Section 27. (a) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(1) of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

(2) during the administration of a decedent's estate; or

(3) under this section if the trustee is accounting under section 12 for the business or activity in which the asset is used.

(b) An amount transferred to principal need not be held as a separate fund.

Section 28. If an amount chargeable to income is unusually large, a trustee may pay

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all or any part of such amount from principal and shall reimburse principal by transfers from income over a reasonable period of time.

Section 29. (a) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately:

(1) from income if receipts from the entity are allocated to income; and

(2) from principal if:-

(i) receipts from the entity are allocated to principal; and

(ii) the trust's share of the entity's taxable income exceeds the total receipts described in this clause and in paragraph (1).

(d) For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

SECTION 5. This act shall take effect on January 1, 2006.

SECTION 6. This act shall apply to a trust or decedent's estate existing on the effective date of this act except as otherwise expressly provided in the will or terms of the trust or in this act.

Approved November 10, 2005.

Chapter 130. AN ACT PROVIDING BENEFITS TO SERVICEMEMBERS, VETERANS AND THEIR FAMILIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide benefits to certain veterans and servicemembers, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Clause Forty-third of section 7 of chapter 4 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the definition of "World War II veteran" and inserting in place thereof the following definition:-

"World War II veteran" shall mean any veteran who performed such wartime service between September 16, 1940 and July 25, 1947, and was awarded a World War II Victory Medal, except that for the purposes of chapter 31 it shall mean all active service between the dates of September 16, 1940 and June 25, 1950.

SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after section 35BB, as so appearing, the following section:-

Section 35CC. There shall be an expendable trust, to be known as the Massachusetts Military Family Relief Fund, the purpose of which is to help members of the Massachusetts National Guard and Massachusetts residents who are members of the reserves of the armed forces of the United States and who were called to active duty after September 11, 2001, and their families, to defray the costs of food, housing, utilities, medical services, and other expenses. The fund shall consist of revenues received by the commonwealth under the provisions of section 6K of chapter 62, from public and private sources as gifts, grants, and donations to further the purposes of the fund. Revenues credited to the fund under this section shall remain in the fund, not subject to appropriation, for application to those purposes. The state treasurer shall not deposit the revenues in, or transfer the revenues to, the General Fund or any other fund other than the Massachusetts Military Family Relief Fund. The state treasurer shall deposit monies in 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. Revenues received for the Military Family Relief Fund shall be directly paid to the Friends of Massachusetts National Guard and Reserve Families by the military division through the established expendable trust.

SECTION 2A. Section 19 of chapter 15A of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

Such guidelines shall provide tuition and fee waivers for Massachusetts National Guard members. The commonwealth, not the institutions of public higher education, shall bear the cost of such tuition and fee waivers for Massachusetts National Guard members.

SECTION 3. Section 4 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in line 146, the word "Massachusetts".

SECTION 4. Section 83 of chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the figure "75" and inserting in place thereof the following figure:- 100.

SECTION 5. Section 88 of said chapter 33, as so appearing, is hereby amended by striking out the second and third paragraph and inserting in place thereof the following paragraph:-

In the case of the death of a member of the Massachusetts National Guard resulting from injury, sickness, or disease received while in the line of duty pursuant to orders under titles 10 and 32 of the United States Code or chapter 33, and that injury, sickness or disease resulting in the death was not the result of fault or neglect on the part of the decedent, a single payment of \$100,000 shall be paid to the surviving spouse. If there is no surviving spouse the amount shall be paid to the child, or children in equal shares, of the decedent. If there is no surviving spouse and no child or children, the surviving mother and father of the decedent, if the father and mother were dependent on the decedent for support at the time of his death each shall each receive \$50,000. If only 1 parent survived the decedent or only 1

parent was dependent on the decedent for support, that parent shall receive \$100,000. The standard for dependency shall be determined in accordance with clause (3) of section 1 and section 32 of chapter 152 . All claims presented under the provision of this section shall be made in accordance with the procedure provided for under section 90.

SECTION 6. Said chapter 33 is hereby further amended by inserting after section 88 the following section:-

Section 88B. Fifty per cent of the monthly premiums for any coverage held in the serviceman's group life insurance program administered by the Veterans Administration, or an equivalent group life insurance program of the servicemember's choosing provided that the reimbursement shall not exceed 50 per cent of the monthly premium cost of the Serviceman's Group Life Insurance, for a member of the Massachusetts National Guard shall be borne by the commonwealth.

SECTION 7. Chapter 62 of the General Laws is hereby amended by inserting after section 6J the following section:-

Section 6K. (a) Every individual who files a separate return and every husband and wife filing a return jointly may voluntarily contribute all or part of any refund to which they are entitled, or may voluntarily add an amount onto any amount due, to be credited to the Massachusetts Military Family Relief Fund established pursuant to section 35CC of chapter 10.

(b) A contribution made under this section may be with respect to any taxable year at the time of filing a return of the tax established by this chapter for such taxable year; provided, however, that the commissioner shall prescribe the manner in which the contribution shall be made on the face of the return required by section 5 of chapter 62C ; and provided, further, that the commissioner shall assure that taxpayers filing the forms are made aware of their ability to make the contributions provided for by this section.

(c) The commissioner shall annually report the total amount designated under this section to the state treasurer, who shall credit the amount to the Massachusetts Military Family Relief Fund.

SECTION 8. Section 4 of chapter 71 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following 2 paragraphs:-

Notwithstanding any general or special law to the contrary, school committees may award diplomas to any World War II veteran, Korean War veteran or Vietnam War veteran as defined in clause Forty-third of section 7 of chapter 4 , who is a resident of the commonwealth, who attended the high school maintained by the school committee, who withdrew from secondary school before graduation in order to serve in the armed forces of the United States, who did not receive a high school diploma as a consequence of that service, and who was honorably discharged from the armed services. The department of education and the department of veterans' services shall jointly promulgate guidelines for the identification of eligible veterans by school districts and for the awarding of the diplomas by school committees.

Family members of deceased veterans, who otherwise are eligible to apply for the diplomas, may apply for a diploma for the veteran posthumously under the same guidelines set forth by the department of education and department of veterans services.

SECTION 9. Section 6B of chapter 115 of the General Laws, as so appearing, is hereby amended by striking out, in lines 18, 26 and 32, the figure "\$1,500" and inserting in place thereof, in each instance, the following figure:- \$2,000.

SECTION 10. Said section 6B of said chapter 115, as so appearing, is hereby amended by inserting after the word "parents", in line 29, the following words:- and surviving spouse, provided that surviving spouse does not remarry,.

SECTION 11. Said section 6B of said chapter 115, as so appearing, is hereby further amended by inserting after the word "parents", in line 34, the following words:- and surviving spouses.

SECTION 12. There shall be a special commission to study tuition and fee waiver programs, pursuant to section 19 of chapter 15A and section 137 of chapter 33 of the General Laws, for veterans. The commission shall consist of: the speaker of the house of representatives, or his designee; the president of the senate, or his designee; the minority leader of the house of representatives, or his designee; the minority leader of the senate, or his designee; the chairpersons of the joint committee on higher education, or their designee; the chairpersons of the joint committee on veterans and federal affairs, or their designee; the chairperson of the house ways and means committee, or his designee; the chairperson of the senate ways and means committee, or his designee; and the secretary of the department of veterans services, or his designee. Results of the commission's study, including, but not limited to, an evaluation of the feasibility of expanding the programs to include any fees, rather than solely matriculation fees, a review of the current pool of eligible recipients and the level of state and local payments for such fees, and an analysis of the need for changes in the laws and regulations relative thereto, shall be reported to the joint committee on veterans and federal affairs and to the clerks of the house and senate by April 1, 2006.

SECTION 13. The Friends of Massachusetts National Guard and Reserve Families, shall be solely responsible for administering the grant program; provided, however, that the military division shall make available the revenues received from the Military Family Relief Fund. The Friends of the Massachusetts National Guard and Reserve Families may make grants from the Massachusetts Military Family Relief Fund to a member or to families of persons who are members of the Massachusetts National Guard or Massachusetts residents who are members of the reserves of the armed forces of the United States and who were called to active duty after September 11, 2001.

The Friends of the Massachusetts National Guard and Reserve Families shall promulgate rules and regulations to establish eligibility requirements for assistance under this section which shall be reviewed by the military division. In developing rules and regulations, the Friends of the Massachusetts National Guard and Reserve Families shall consult with the

military division, military support groups, including, but not limited to, the Family Assistance Fund and family assistance centers.

SECTION 14. (a) The Friends of the Massachusetts National Guard and Reserve Families shall submit an annual report to the secretary of administration and finance and the house and senate committees on ways and means detailing:-

(1) the expenditure of the funds including the amount of assistance provided from the fund by branch of service, regular or reserve duty classification, amount of individual assistance provided, the reason that qualified a member of the military or the member's family for assistance and the balance remaining within the interest income account for future disbursements;

(2) the name, address, rank and rating, branch of service, deployment location and amounts of financial assistance provided to each eligible military member and to the member's family.

(b) The information provided pursuant to clause (1) of subsection (a) shall be public records. The information provided pursuant to paragraph 2 of subsection (a) shall be confidential and shall be available for inspection only by the secretary of administration and finance and the general court. Names, addresses and deployment locations shall not be in any report available for public access. The secretary of administration and finance and the legislators with legal access to the report shall be required to hold names, addresses and deployment locations confidential.

SECTION 15. In the event that the Friends of Massachusetts National Guard and Reserve Families loses its status as a charitable corporation or ceases to exist, the secretary of administration and finance shall identify a charitable organization to administer the grants.

SECTION 16. Upon application, as provided in this section, there shall be allowed and paid out of the treasury of the commonwealth without appropriation to each person, who shall have served in the armed forces of the United States in active service as part of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle who was discharged or released under honorable conditions from such service, the sums specified in this section; if the domicile of every person on account of whose service the application is filed, shall have been in the commonwealth for a period of not less than 6 months before the time of his entry into the service.

(1) \$1,000 to each such veteran who performed active service outside the continental limits of the United States in the Afghanistan or Iraq area as those areas are described by proper federal authority.

(2) \$500 to each such veteran who performed active duty within the continental limits of the United States or outside the continental limits of the United States other than in the Afghanistan or Iraq areas for a period of 6 months or more.

"Active service in the armed forces", as used in this section shall not include active duty for training in the Army National Guard or Air National Guard or active duty for training as a reservist in the armed forces of the United States.

The words "armed forces", as used in this act, shall mean the following:-

United States Army, Army of the United States, Army Reserves, United States Navy, United States Naval Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, Army Nurse Corps, Navy Nurse Corps, United States Air Force, United States Air Force Reserve, Air National Guard and Army National Guard and including women's branches of said armed forces.

In the case of the decease of any person who would, if alive, be entitled to the benefits of this act, the sum named therein shall be paid to the decedent's heirs-at-law; provided, that if there is more than one heir-at-law, payments shall, in either case, be made in such proportions as the state treasurer shall determine, and in determining the order of precedence, so far as practicable, the following order shall be observed:- spouse and children, mother or father, brother or sister, other dependents; provided, however, that no right or payment under this act shall be subject to the claims of creditors, capable of assignment, regarded as assets, legal or equitable of the estate of the deceased or made the basis for administration thereof.

In case of the decease of any person who died while in active service, there shall be paid the sum of \$1,000 subject to, and in the manner provided by the above paragraph. In the case of any person who is mentally incompetent and is entitled to the benefits of this act and for whom no legal guardian has been appointed by court, the sum named therein shall be paid to the decedent's dependents, and in determining the order of precedence so far as practicable, the following order shall be observed:- (i) spouse and children; (ii) mother or father; (iii) brother or sister and (iv) other dependents.

Applications hereunder shall be filed with the state treasurer, upon forms to be furnished by him. The state treasurer may accept the written statement of the clerk of a city or town that a person claiming pay or on whose account pay is claimed by a dependent or heir-at-law, under the provisions of this act, was domiciled therein on the first day of January, in any year, as prima facie evidence of the fact of such domicile, and he may accept such other evidence of domicile as he may consider adequate or necessary. The clerks of the several cities and towns shall, at the request of the state treasurer, forthwith furnish such information relative to such domicile as their records may disclose. The state treasurer may require and accept such additional evidence as he may consider necessary to establish the fact of domicile within the commonwealth as provided under section 1. The adjutant general shall certify to the state treasurer the dates of service and any other military information necessary to carry out the provisions of this act. The state treasurer shall furnish to the adjutant general a copy of Form DD-214 or equivalent documentation as determined by the adjutant general for the permanent records of the military division of the commonwealth. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under the provisions of this act, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 3 years, or both. Offenses under this section may be prosecuted by the attorney general, or under his direction, in any court within the commonwealth, and all fines collected thereunder shall be paid to the treasury of the commonwealth. The state treasurer shall act upon all applications made hereunder, and may

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expend for clerical assistance and for such other expenses such sums as may be necessary in carrying out this act, not exceeding the sums appropriated by the general court for the purpose. Any person aggrieved by a decision of the state treasurer in the matter of payments provided for by this act may appeal to a board, to consist of a member of the department of the state treasurer to be designated by him, an assistant attorney general to be designated by the attorney general, and the adjutant general or his designee, and shall be entitled to a hearing, after due notice, upon such appeal. The decision of the board shall be final.

SECTION 17. Section 5 and section 16 shall take effect as of September 11, 2001.

SECTION 18. Section 9 shall take effect on January 1, 2006.

SECTION 19. Section 2A shall take effect on July 1, 2006.

Approved November 11, 2005.

**Chapter 131. AN ACT RELATIVE TO THE MEMBERSHIP OF THE
CONSERVATION COMMISSION OF THE TOWN OF FALMOUTH.**

Be it enacted, etc., as follows:

Chapter 134 of the acts of 1998 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The chair or presiding officer of the commission shall designate any such associate member to sit on the commission whenever a regular member is absent, unable to participate due to a conflict of interest or a vacancy exists. No more than 7 regular and associate members may sit on any particular matter coming before the commission.

Approved November 18, 2005.

**Chapter 132. AN ACT RELATIVE TO PROPERTY IN THE TOWN OF
FOXBOROUGH.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 16 of chapter 30B , and section 3 of chapter 40 of the General Laws and chapter 312 of the acts of 1996 or any other general or special law to the contrary, the town of Foxborough may lease, for a term exceeding 10 years, certain property acquired under said chapter 312 for use as a children's advocacy center on such terms as the board of selectmen may determine. The property is shown as "Lot H-1 Lease Area" and "Lot H-2 Lease Area" and bounded by the lease lines shown on a plan entitled "Site Plan of Land in Foxborough, MA, "Children's Advocacy Center", " drawn by Bay Colony Group, Inc., dated July 18, 2005, with revisions as shown dated September 29, 2005,

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which is on file with the town clerk. The proceeds or a portion thereof, if any, of the lease shall be used by the town for recreational improvements to achieve no net loss in lands which were acquired for the purposes stated in article 97 of the Amendments to the Constitution.

SECTION 2. No document transferring care, custody, control, and management of the property described in section 1 shall be valid unless such document provides that said property shall be used solely for the purposes of providing for the operation of a children's advocacy center as described in section 1. The document shall include a reversionary clause that stipulates that the property will revert to municipal recreational purposes if the property ceases to be used for the purposes described in section 1.

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

Approved November 18, 2005.

Chapter 133. AN ACT AUTHORIZING THE APPOINTMENT OF RETIRED POLICE OFFICERS IN THE TOWN OF WEYMOUTH TO SERVE AS SPECIAL OFFICERS.

Be it enacted, etc., as follows:

SECTION 1. The chief of police in the town of Weymouth, as the appointing authority, may appoint as he deems necessary, retired police officers as special police officers for the purpose of performing police details or performing any police duties arising from those police details or arising during the course of police detail work, whether or not related to the detail work. The retired police officers must have been regular Weymouth police officers and retired, based on superannuation. The special police officers shall not be subject to the maximum age restrictions applied to regular police officers under chapter 32 of the General Laws, but shall not be eligible to serve as special police officers if they have reached the age of 70. 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 their duties under section 1, have the same powers to make arrests and perform other functions as do regular police officers in the town of Weymouth.

SECTION 4. Special police officers shall be appointed for an indefinite term, subject to removal by the town council of the town of Weymouth at any time with 14 days written notice. Upon request, the town council 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 Weymouth including restrictions on the type of detail assignment, requirements regarding medical examinations to determine continued capacity 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.

SECTION 6. Special police officers shall be sworn in before the town clerk of the town of Weymouth who shall keep a record of all such appointments.

SECTION 7. Special police officers appointed under this act shall be subject to sections 100 and 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 before 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. Since special police officers in the town of Weymouth shall not be subject to the maximum age restriction, payment under said section 111F shall not terminate when a special police officer reaches the age of 65. In no event shall the benefits under said section 111F 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 or eligible for any benefits under that section.

SECTION 8. An individual who is appointed as a special police officer under this act shall be eligible for assignment to any detail.

SECTION 9. Retired police officers in the town of Weymouth 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 18, 2005.

Chapter 134. AN ACT AUTHORIZING THE SALE OF CERTAIN CONSERVATION LAND IN THE TOWN OF TEWKSBURY.

Be it enacted, etc., as follows:

SECTION 1. The town of Tewksbury may convey to the successful proposer certain town-owned conservation land consisting of approximately 3,521 square feet to be used for residential purposes. The land is shown on Tewksbury Assessor's Map 98, Lot 148.

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SECTION 2. The consideration for the parcel described in section 1 shall be the fair market value of the parcel or the fair market value of its proposed use, whichever is greater, to be determined by 1 or more independent appraisals. The cost of such appraisal shall be assumed by the successful proposer. This conveyance shall be made in accordance with chapter 30B of the General Laws and the town of Tewksbury shall apply the proceeds thereof for conservation and recreation purposes.

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

Approved November 18, 2005.

Chapter 135. AN ACT AUTHORIZING THE TOWN OF DEDHAM TO TRANSFER LAND FOR SENIOR CENTER PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The town of Dedham may transfer the care, custody, management and control of a certain parcel of land, currently held for recreational purposes, from the parks and recreation commission to the board of selectmen, to be used for senior center purposes. This parcel is a portion of the Striar Property and is shown as "Parcel A 122,861 Sq. Ft 2.2 Acres" on a plan entitled "Plan of Land Showing Proposed Change in Use/Care/Custody of a Portion of 'Manor Estates,' Sprague Street, Dedham, MA", dated September 27, 2004, prepared by the Norfolk county engineering department.

SECTION 2. No document transferring care, custody, control or management of any portion of the property described in section 1 shall be valid unless such document provides that the property shall be used solely for the purposes of a senior center as described in section 1. This document shall include a reversionary clause that stipulates that the property will revert to the Dedham parks and recreation commission for public recreation purposes if the property ceases to be used for the express purposes for which it was transferred.

Approved November 18, 2005.

Chapter 136. AN ACT PROVIDING SENIOR TAX RELIEF.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith tax relief for the senior population 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:

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SECTION 1. Section 5 of chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "annum", in line 1001, the following words:- or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, no later than the beginning of the fiscal year to which the tax relates.

SECTION 2. Paragraph (1) of subsection (k) of section 6 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting before the definition of "Cost-of-living-adjustment" the following definition:-

"Cost-of-housing adjustment", for any calendar year, the percentage, if any, by which the average assessed value for a single-family home in the commonwealth for the preceding calendar year, as calculated by the department of revenue, exceeds the average assessed value for a single-family home in the commonwealth for calendar year 2004, as reported by the department.

SECTION 3. Said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 328, the figure "\$400,000" and inserting in place thereof the following figure:- \$600,000.

SECTION 4. Paragraph (4) of subsection (k) of said section 6 of said chapter 62, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- For a taxable year beginning on or after January 1, 2001 and before January 1, 2005, the income, valuation and credit limits in this subsection shall be increased by amounts equal to such income, valuation and credit limits multiplied by the cost-of-living adjustment for the calendar year in which such taxable year begins. For a taxable year beginning on or after January 1, 2005, the income and credit limits in this subsection shall be increased by amounts equal to such income and credit limits multiplied by the cost-of-living adjustment for the calendar year in which such taxable year begins, and the valuation limit in this subsection shall be increased by an amount equal to such valuation limit multiplied by the cost-of-housing adjustment for the calendar year in which such taxable year begins.

SECTION 5. The commissioner of revenue shall adopt regulations to carry out the purposes of this act.

Approved November 20, 2005.

Chapter 137. AN ACT RELATIVE TO A LOADED SHOTGUN OR RIFLE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to clarify the definition of loaded shotgun and loaded rifle, 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:

Subsection (a) of section 12D of chapter 269 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Except as exempted or provided by law, no person shall carry on his person on any public way a loaded rifle or shotgun having cartridges or shells in either the magazine or chamber thereof. For purposes of this section, "loaded shotgun or loaded rifle" shall mean any shotgun or rifle having ammunition in either the magazine or chamber thereof, such ammunition including a live cartridge, primer (igniter), bullet or propellant powder designed for use in any firearm, rifle or shotgun and, in the case of a muzzle loading or black powder shotgun or rifle, containing powder in the flash pan, a percussion cap and shot or ball; but the term "loaded shotgun or loaded rifle" shall not include a shotgun or rifle loaded with a blank cartridge, which contains no projectile within such blank or within the bore or chamber of such shotgun or rifle.

Approved November 22, 2005.

Chapter 138. AN ACT RELATIVE TO STATE UNEMPLOYMENT TAX AVOIDANCE.

Be it enacted, etc., as follows:

SECTION 1. Section 12 of chapter 151A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "thirty-nine", in line 12, the following words:-, except that the department shall be considered a party at such hearing.

SECTION 2. Said section 12 of said chapter 151A, as so appearing, is hereby further amended by striking out, in line 54, the word "two" and inserting in place thereof the following figure:- 4.

SECTION 3. Subsection (n) of 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) If the entire organization, trade or business of an employer, or substantially all the assets thereof, are transferred to another employer or employing unit, the transferee shall be considered a successor for the purpose of this section. Written notice of the transfer shall be given to the commissioner by all transferring employers and successors within 120 days of the date of transfer. Successors shall be barred from taking over the account of any transferring employers having a plus balance if the transferring employers have not filed all reports and paid all contributions required of the transferring employers under this chapter through the end of the quarter preceding the date of transfer; but, no successor shall be denied the transferring employer's plus balance if the successor files all reports and pays all

contributions required of the transferring employer within 30 days after mailing of the notice of determination. If the commissioner allows the transferee to take over the account of any transferring employer having a plus balance, the commissioner shall notify the transferring employer of the allowance. The transferring employer may, within 10 days after the date of mailing of the notice, request a hearing for the purpose of reconsidering whether the transfer of the account balance should be allowed. The hearing and any subsequent appeal shall be in accordance with the procedures prescribed by and pursuant to section 12.

SECTION 4. Said chapter 151A is hereby further amended by inserting after section 14M the following two sections:-

Section 14N. Notwithstanding any other provision of this chapter, the following shall apply regarding the assignment of contribution rates and transfer of accounts:

(a) If an employer transfers its trade or business, or a portion thereof, to another employer or employing unit and, at the time of the transfer, there is substantially common ownership, management or control of the transferor and transferee, then the account of the transferor shall be transferred to the transferee. The contribution rates of the transferor and transferee shall be recalculated in accordance with subsection (c) and made effective immediately upon the date of transfer of trade or business. The transfer of some or all of such employer's workforce to another employer or employing unit shall be considered a transfer of trade or business when, as the result of the transfer, the transferring employer no longer performs that portion of the trade or business with respect to the transferred workforce, and the trade or business is performed by the employer to whom the workforce is transferred.

(b)(1) The commissioner shall not transfer to the transferee the account of the transferor where the commissioner has determined that the transferee, which was not a subject employer at the time of the transfer, acquired the transferor's business primarily for the purpose of obtaining a lower rate of contributions. In those situations, the commissioner shall assign the transferee the applicable employer rate under section 14.

(2) A transferee may be considered to have acquired the business, or a portion thereof, primarily for the purpose of obtaining a lower rate of contributions if the contribution rate of the transferred business or of the transferred portion of the business was lower than the contribution rate of the transferee, unless the transferee shows to the satisfaction of the commissioner that the transfer did not take place primarily for the purpose of lowering the contribution rate.

(3) In determining whether the transferee acquired the business primarily for the purpose of obtaining a lower rate of contributions, the commissioner may consider factors as whether the transferee continued the business enterprise of the acquired business, how long the business enterprise was continued and whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted before the acquisition.

(c)(1) For the calendar year in which a transfer of the entire business of the transferor occurs, the contribution rate of the transferee shall be determined by combining the account

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balance of the transferor and transferee as of the immediately preceding September 30 and recomputing the contribution rate in accordance with section 14.

(2) For the calendar year in which a transfer of a portion of the business of the transferor occurs, the contribution rates of the transferor and transferee shall be determined as follows: (i) the commissioner shall remove from the transferor's account balance that portion of the transferor's account balance associated with the transfer of the business to the transferee as provided by paragraph (3); and (ii) the commissioner shall charge or credit to, whichever is appropriate, the transferee's account balance that portion of the transferor's account balance associated with the transfer of the business to the transferee as provided in paragraph (3). The commissioner shall recompute the transferor's and transferee's account balance and contribution rates as of the immediately preceding September 30 in accordance with section 14. The contribution rates shall be effective upon the date of the transfer of the portion of the business.

(3) The commissioner shall determine that portion of the transferor's account balance associated with the transfer of the business to the transferee by adding together the taxable wages reported for that portion of the business function transferred, whether or not the employees were actually transferred, for the last 4 completed quarters immediately preceding the quarter in which the transfer occurs and dividing that result by the total taxable wages reported by the transferor for the same time period. The commissioner shall multiply the transferor's account balance as of the immediately preceding September 30 by the result obtained above to determine that portion of the transferor's account balance associated with the transfer of the business to the transferee. If the transferor has been subject to the provisions of this chapter for fewer than 4 completed quarters, the commissioner shall use the taxable wage data for all completed quarters in making the above calculations.

(d) If 2 or more employing units or portions thereof consolidate to form a new employing unit and there exists common ownership, management or control among some or all of the consolidated employing units, the contribution rate shall be determined by combining the account balance of the consolidated employing units as of the immediately preceding September 30 and recomputing the contribution rate in accordance with section 14. The recomputed contribution rate shall be effective as of the date of consolidation.

(e) If an employer transfers its trade or business, or a portion thereof, to an employing unit which has been suspended from filing requirements under this chapter within the 2 year period before the transfer and, at the time of the transfer, there is substantially common ownership, management or control of the transferor and transferee, the account of the transferee shall be revived and combined with the account of the transferor as of the immediately preceding September 30. The contribution rates of the transferor and transferee shall be recalculated in accordance with subsection (c) and made effective immediately upon the date of transfer of the trade or business.

(f) Where the entire business of the transferor has been transferred to the transferee and, at the time of the transfer, there is substantially common ownership, management or control of the transferor and transferee: (1) the transferee shall be liable for any amounts owed by the transferor to the fund at the time of the transfer and (2) the account taken over

by the transferee shall remain liable with respect to accrued benefits and related rights based on employment in the transferred business, and all such employment shall be considered employment performed for such transferee.

(g)(l) If a person knowingly violates or attempts to violate subsections (a) or (b) or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person in a way that results in a violation or attempted violation of the provision, or the person should have known that the advice would have resulted in a violation or attempted violation of the provisions, the person shall be subject to the following civil penalties:

(i) The commissioner shall assess the transferor and transferee a penalty equal to 4 per cent of the taxable wages of the entity for the last 4 completed calendar quarters immediately before the transfer; provided, that if either the transferor or transferee or both has been subject to this chapter fewer than 4 completed calendar quarters, the penalty shall equal 4 per cent of the taxable wages of such entity for all quarters in which the transferor or transferee was subject to this chapter; provided further, that if the transferee was not subject to this chapter before the transfer, the penalty for the transferee shall be based on the proportion of the transferor's taxable wages associated with the transferred portion of the business for the last 4 completed calendar quarters.

(ii) The commissioner shall assess a penalty equal to the amount of the penalty assessed against the employing unit against a person who provided advice in a way that resulted in violation or attempted violation of either subsection (a) or (b); but for a second offense or for a failure to pay the assessed penalty within 90 days from the date the penalty notice was issued, the commissioner may bar the person from representing any employing unit in any matters under this chapter and report the person to the applicable licensing authority. For the purpose of this clause, any penalty issued by any other state unemployment compensation agency against the person for providing the advice shall be treated as if it had been issued by the department.

(iii) In no case will the penalty assessed in accordance with clauses (i) or (ii) be less than \$2500.

(2) For the purposes of this subsection, the term "knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibitions involved and the term "violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation, willful nondisclosure and failure or refusal to furnish reports or requested information.

(3) In addition to the penalty imposed by this subsection, any person violating this section shall be subject to the penalties provided in section 47.

(4) The commissioner shall deposit all penalties assessed and collected under paragraph (1) into a "Fraud Penalty Fund" established by section 14 O.

(h) This section shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

(i) The commissioner shall establish procedures to identify the transfer or acquisition of a business for purposes of this section and may issue regulations necessary to carry out the purposes of this section.

(j) Except where inconsistent with the provisions of this section, the provisions of this chapter, including any authorized collection activities, and the rules and regulations adopted under this chapter, shall apply to this section.

(k) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Any other provision of this chapter related to determining the assignment of a contribution rate" includes, but not limited to, payrolling.

"Business", a trade or business or part thereof.

"Common ownership, management or control", at the time of transaction, the following:

(1) "Common ownership of corporations" means that a stockholder or other person or business entity owned or exercised the power of ownership, directly, indirectly or through 1 or more other persons, in law or in fact, over 25 per cent or more of any voting securities of both the transferring employer and the transferee.

(2) "Common management or control of corporations" means a chief executive officer, chief financial officer, or any other person holding similar authority for the transferring employer, served as, or had a continuing family relationship with, a chief executive officer, chief financial officer or person holding similar authority for the transferee employer.

(3) "Common ownership, management or control of partnerships, limited partnerships or joint ventures", means that 1 person, corporation or other legal entity which served as a managing partner, or held or exercised the power of a managing partner, directly or through an intermediary, in law or in fact, whether in a partnership or limited partnership, or served as a member of a joint venture in the transferring employer also served as a managing partner or held or exercised the power of a managing partner, directly or through an intermediary, in law or in fact, whether in a partnership or limited partnership, or served as a member of a joint venture in the transferee employer.

(4) "Common ownership, management or control of trusts", one person, corporation or other legal entity which served as a trustee or which exercised the powers of a trustee, directly or through an intermediary, in law or in fact, of the transferring employer trust, or was a beneficiary of the transferring employer trust, also served as a trustee or exercised the powers of a trustee, directly or through an intermediary, in law or in fact, of the transferee trust, or was a beneficiary of the transferee trust.

(5) "Common ownership, management or control of limited liability corporations" one person, corporation or other legal entity which served as an owner or member of a transferring employer limited liability corporation, or which exercised the power of an owner or member of a transferring employer limited liability corporation, directly or through an inter-

mediary, in law or in fact, also served as an owner or member, directly or through an intermediary, in law or in fact, of the transferee employer limited liability corporation.

(6) "Common ownership, management or control of sole proprietorships", the sole proprietor, or a family member of the sole proprietor, of the transferring employer served as the sole proprietor of the transferee, or was a family member of the sole proprietor of the transferring employer.

(7) "Common ownership, management or control involving a transaction between business entities of different forms", the ownership, management or control of the transferring employer met the criteria described in paragraph (1),(2),(3), (4), (5) or (6) and the ownership, management or control of the transferee met the criteria described in 1 of the other paragraphs.

"Family member", a member of a nuclear or extended family, whether by birth or adoption, including, but not limited to, a spouse, parent, child, sister, brother, sister-in-law, brother-in-law, aunt, uncle, niece, nephew, and first cousin.

"Payrolling", the practice where 1 employer reports its payroll under another employer's account.

"Person", the meaning given the term by section 7701(a)(1) of the Internal Revenue Code of 1986.

"Taxable wages", that part of the payroll on which the employing unit is required to make contributions.

"Time of the transaction", any time within the 12 months preceding the date of the completion of the transaction.

Section 14 O. There shall be a separate fund to be known as the Fraud Penalty Fund which shall be administered by the commissioner, without liability on the part of the commonwealth beyond the amount credited to and earned by the fund. The fund shall consist of all amounts received under section 14N which shall be credited to the fund and any other monies authorized by law to be credited to the fund, including interest earned in the fund. Money in the fund shall be used only to support the department's activities related to detection, prevention and administration of employer fraud provisions of this chapter. The monies in the fund shall be continuously available to the commissioner for those purposes and shall not lapse at any time or be transferred to any other fund or account.

SECTION 5. Section 47 of said chapter 151A, as so appearing, is hereby amended by inserting after the fourth paragraph the following paragraph:-

Any person, as defined in section 14N, or officer or agent of the person, who knowingly violates or attempts to violate subsections (a) or (b) of section 14N or any other provision of this chapter related to determining the assignment of a contribution rate or if a person knowingly advises another person in a way that results in a violation or attempted violation of the provisions shall be punished by imprisonment in the state prison for not more than 5 years or by imprisonment in jail for not less than 6 months nor more than 2 1/2 years or by a fine of not less than \$5,000 nor more than \$50,000, or by both such fine and imprisonment.

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SECTION 6. This act shall take effect with respect to calendar years beginning on or after January 1, 2006.

Emergency Letter: November 23, 2005 @ 10:26 A.M. Approved November 22, 2005.

Chapter 139. AN ACT ESTABLISHING MINIMUM ENERGY-EFFICIENCY STANDARDS FOR CERTAIN PRODUCTS.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 25B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting before the definition of "Commissioner" the following 3 definitions:-

"Ballast", a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current and waveform) for starting and operating the lamp.

"Boiler", a space heater that is a self-contained appliance for supplying steam or hot water primarily intended for space heating. This term does not include hot water supply boilers.

"Central furnace", a self-contained space heater designed to supply heated air through ducts of more than 10 inches in length.

SECTION 2. Said section 2 of said chapter 25B, as so appearing, is hereby further amended by inserting after the definition of "Commissioner" the following 3 definitions:-

"Compensation", money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

"Electricity ratio (ER)" is the ratio of furnace electricity use to total furnace energy use. $ER = (3.412 * EAE) / (1000 * EF + 3.412 * EAE)$ where EAE and EF are defined in title 10 of the code of federal regulations.

"High-intensity discharge lamp", a lamp in which light is produced by the passage of an electric current through a vapor or gas and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of 3 watts per square centimeter.

SECTION 3. Said section 2 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 4, the words "or 'ballast'" and inserting in place thereof the following words:- or "fluorescent ballast".

SECTION 4. Said section 2 of said chapter 25B, as so appearing, is hereby further amended by inserting after the definition of "Luminaire" the following 3 definitions:-

"Medium voltage dry-type distribution transformer", a transformer that: (1) has an input voltage of more than 600 volts but less than or equal to 34,500 volts; (2) is air-cooled; (3) does not use oil as a coolant; and (4) is rated for operation at a frequency of 60 Hertz.

"Metal halide lamp", a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

"Metal halide lamp fixture", a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

SECTION 5. Said section 2 of said chapter 25B, as so appearing, is hereby further amended by inserting after the definition of "New appliance" the following definition:-

"Probe-start metal halide ballast", a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode probe in the arc tube.

SECTION 6. Said section 2 of said chapter 25B, as so appearing, is hereby further amended by inserting after the definition of "Refrigerator-freezer" the following 3 definitions:-

"Residential furnace or boiler", a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which:-

- (1) is designed to be the principle heating source for the living space of a residence;
- (2) is not contained within the same cabinet with a central air conditioner with a rated cooling capacity exceeding 65,000 Btu per hour;
- (3) is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace or low-pressure steam or hot water boiler; and
- (4) has a heat input rate of less than 300,000 Btu per hour for electric boilers and low-pressure steam or hot water boilers, and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnace and electric central furnaces.

"Single-voltage external AC to DC power supply", a device that:

- (1) is designed to convert line voltage AC input into lower voltage DC output;
- (2) is able to convert to only one DC output voltage at a time;
- (3) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;
- (4) is contained within a separate physical enclosure from the end-use product;
- (5) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord or other wiring;
- (6) does not have batteries or battery packs, including those that are removable, that physically attach directly to the power supply unit;
- (7) does not have a battery chemistry or type selector switch and indicator light, or does not have a battery chemistry or type selector switch and a state of charge meter; and
- (8) has a nameplate output power less than or equal to 250 watts.

"State-regulated incandescent reflector lamp", a lamp, not colored or designed for rough or vibration service applications, with an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, a rated voltage or voltage range that lies at least

partially within 115 to 130 volts and that falls into either of the following categories: a bulged reflector, elliptical reflector, blown parabolic aluminized reflector or similar bulb shape with a diameter equal to or greater than 2.25 inches; or a reflector, parabolic aluminized reflector, bulged reflector or similar bulb shape with a diameter of 2.25 to 2.75 inches, inclusive.

SECTION 7. Said section 2 of said chapter 25B, as so appearing, is hereby further amended by inserting after the definition of "State plumbing code" the following definition:-
"Transformer", a device consisting of 2 or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value. This term does not include: (1) devices with multiple voltage taps, with the highest voltage tap equaling at least 20 per cent more than the lowest voltage tap; or (2) devices, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, uninterruptible power system transformers, impedance transformers, regulating transformers, sealed and non-ventilating transformers, machine tool transformers, welding transformers, grounding transformers or testing transformers, that are designed to be used in a special-purpose application and are unlikely to be used in general-purpose applications.

SECTION 8. The first paragraph of section 3 of said chapter 25B, as so appearing, is hereby amended by adding the following 5 clauses:-

- (f) medium voltage dry-type distribution transformers.
- (g) metal halide lamp fixtures.
- (h) residential furnaces or boilers.
- (i) single-voltage external AC to DC power supplies.
- (j) state-regulated incandescent reflector lamps.

SECTION 9. Said section 3 of said chapter 25B, as so appearing, is further amended by striking out, in line 25, the words "; or lamps installed in residences".

SECTION 10. Section 4 of said chapter 25B, as so appearing, is hereby amended by striking out, in lines 1 and 6, the words "section three" and inserting in place thereof, in each instance, the following words:- clauses(a) to (e), inclusive, of section 3.

SECTION 11. Section 5 of said chapter 25B, as so appearing, is hereby amended by adding the following 4 paragraphs:-

The commissioner, in consultation with the heads of other appropriate agencies, shall adopt regulations, in accordance with this chapter, establishing minimum energy efficiency standards for the types of new products set forth in clauses (f) to (s), inclusive, of section 3.

The regulations shall provide for the following minimum efficiency standards:

(1) Medium voltage dry-type distribution transformers shall meet minimum efficiency levels 3/10 of a percentage point higher than the Class 1 efficiency levels for medium voltage distribution transformers specified in Table 4-2 of the "Guide for Determining Energy Efficiency for Distribution Transformers" published by the National Electrical Manufacturers Association (NEMA Standard TP-1-2002).

(2) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide ballast.

(3) Residential furnaces or boilers shall meet or exceed the following Annual Fuel Utilization Efficiency (AFUE):

Product Type	Minimum Efficiency Level
Gas and propane furnaces	90% AFUE
Oil furnaces	83% AFUE
Gas and propane hot water boilers	84% AFUE
Oil-fired hot water boilers	84% AFUE
Gas and propane steam boilers	82% AFUE
Oil-fired steam boilers	82% AFUE

The commissioner may adopt rules to exempt compliance with these furnace or boiler standards at any building, site or location where complying with said standards would be in conflict with any local zoning ordinance, building or plumbing code or other rule regarding installation and venting of boilers or furnaces.

Residential furnace air handlers shall have an ER of 2 per cent or less, except residential oil furnaces with a capacity of less than 94,000 Btu per hour shall have an ER of 2.3 per cent or less.

(4) Single-voltage external AC to DC power supplies shall meet the tier 1 energy efficiency requirements of California Code of Regulations, Title 20, Section 1605.3 as published in April 2005. This standard applies to single-voltage AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

(5) State-regulated incandescent reflector lamps shall meet the minimum average lamp efficiency requirements for federally-regulated incandescent reflector lamps contained in 42 U.S.C. section 6295 (i)(1)(A). The following lamps are exempt from these requirements: ER30, BR30, BR40 and ER40 of 50 watts or less; BR30, BR40 and ER40 of 65 watts; and R20 of 45 watts or less.

On or after January 1, 2008, no new medium voltage dry-type distribution transformer, single-voltage external AC to DC power supply or state-regulated incandescent reflector lamp may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the regulations adopted pursuant to this section. On or after January 1, 2009, no new metal halide lamp fixture may be sold or offered for sale in the commonwealth unless the efficiency of the product meets or exceeds the efficiency standards set forth in the regulations adopted pursuant to this section. In accordance with section 9, the commissioner, in consultation with the attorney general, shall determine if implementation of state standards for residential furnaces or boilers requires a waiver from federal preemption, and shall apply for such waivers if necessary. If the commissioner determines that a waiver from federal preemption is necessary for residential furnaces or boiler standards established by this section, the state standard shall go

into effect at the earliest date permitted by federal law. If the commissioner determines that a waiver from federal preemption is not needed for residential furnaces or boilers, then such state standards shall go into effect on June 1, 2008.

One year after the date upon which sale or offering for sale of certain products is limited pursuant to the preceding paragraph of this section, no new products may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the regulations adopted pursuant to this section.

SECTION 12. Section 6 of said chapter 25B, as so appearing, is hereby amended by striking out, in lines 3 and 10, the words "the state plumbing code" and inserting in place thereof, in each instance, the following words:- any other applicable code regarding the testing of appliance efficiency.

SECTION 13. Said section 6 of said chapter 25B, as so appearing, is hereby further amended by inserting after the first paragraph the following 2 paragraphs:-

The commissioner may test products covered by section 3. If products so tested are found not to be in compliance with the minimum efficiency standards established under section 5, the commissioner shall: (1) charge the manufacturer of such product for the cost of product purchase and testing, and (2) provide information to the public on products found not to be in compliance with the standards.

In adopting test procedures for determining energy efficiency, the commissioner may consult with other appropriate department heads and may adopt updated test methods when new versions of test procedures become available.

SECTION 14. The first paragraph of section 7 of said chapter 25B, as so appearing, is hereby amended by adding the following 3 sentences:- Manufacturers' certifications shall be based on test results. The commissioner shall coordinate with the certification programs of other states and federal agencies with similar standards to the maximum extent practicable, including investigating whether certification in another state can serve as a substitute for certification in the commonwealth. Single voltage external AC to DC power supplies shall be exempt from the requirements of this section.

SECTION 15. Said section 7 of said chapter 25B, as so appearing, is hereby further amended by adding the following paragraph:-

Manufacturers of new products covered by section 3 shall identify each product offered for sale or installed in the state as in compliance with this chapter by means of a mark, label or tag on the product and packaging at the time of sale or installation. The commissioner shall promulgate regulations governing the identification of such products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards. The commissioner shall allow the use of existing marks, labels or tags which connote compliance with the efficiency requirements of this chapter. State regulated incandescent reflector lamps and metal halide lamp fixtures shall be exempt from the requirements of this paragraph. The commissioner, in consultation with other states, product manufacturers and other interested

parties, shall study and evaluate the usefulness and effectiveness of such markings for incandescent reflector lamps and metal halide lamp fixtures.

SECTION 16. Section 8 of said chapter 25B, as so appearing, is hereby amended by striking out, in line 1, the word "shall" and inserting in place thereof the word:- may.

SECTION 17. Said section 8 of said chapter 25B, as so appearing, is hereby further amended by inserting after the first sentence the following sentence:- The commissioner may also work with the chairman of the board of building regulations and standards to coordinate inspections for new products that are also covered by the state building code.

SECTION 18. Said chapter 25B is hereby further amended by striking out section 10, as so appearing, and inserting in place thereof the following section:-

Section 10. The commissioner shall study and evaluate the effectiveness of energy efficiency in the commonwealth as well recommend new or increased efficiency standards. Such study and evaluation shall be conducted in consultation with interested parties. The commissioner shall file a report with the clerk of the house of representatives on or before September 1 of the year before each new legislative session, describing the timing, scope and findings of this study, and shall recommend to the general court new or increased efficiency standards, if these standards would serve to promote conservation in the commonwealth and would be cost-effective for the users, as a group, of the covered appliance. The clerk shall forward such report to the joint committee on telecommunications, utilities and energy of the general court.

The commissioner may adopt such further regulations as necessary to ensure the proper implementation and enforcement of this chapter.

SECTION 19. The commissioner of the division of energy resources, in consultation with the heads of other appropriate agencies, shall, no later than June 1, 2006, adopt regulations to establish minimum energy efficiency standards, in accordance with chapter 25B of the General Laws, for the types of new products set forth in clauses (f) to (s), inclusive, of section 3 of said chapter 25B.

Approved November 22, 2005.

Chapter 140. AN ACT RELATIVE TO HEATING ENERGY ASSISTANCE AND TAX RELIEF.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a heating energy assistance and tax relief program, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing a certain item in the general appropriation act for fiscal year 2006, the sum set forth in section 2 is hereby appropriated from the General Fund unless specifically designated otherwise in this act or in said appropriation act, for the several purposes and subject to the conditions specified in this act or in said appropriation act and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2006. The sum in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of that item. The sum appropriated in section 2 shall not revert and shall be available for expenditure until June 30, 2006.

SECTION 2.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

Department of Housing and Community Development.

7004-1000 For a one-time state supplement to the federal Low Income Home Energy Assistance Program 42 U.S.C. Section 8621 et seq., for the purpose of assisting low-income elders, working families and other households with the purchase of heating oil, propane and natural gas and electricity and other primary or secondary heating sources; provided, that expenditure of these supplemental funds shall be made in accordance with the state plan submitted by the department of housing and community development in accordance with the federal program; provided further, that the department shall establish the maximum assistance for which a household is eligible commensurate with the increased funding provided in this item; provided further, that \$5,000,000 shall be immediately available for the program and shall be available for all eligible households; provided further, that \$15,000,000 shall be available for expenditure for the program after all federal funds that have been appropriated for the purpose have been committed to energy suppliers, provided, however, that for the purposes of this section a supplemental federal appropriation shall not be considered in determining the release of the funds herein, provided, further that the secretary of administration and finance shall submit to the senate and house committees on ways and means and the joint committee on telecommunications, utilities and energy a spending plan for the funds to be expended hereunder no later than February 1, 2006 and provided, further that the plan shall include a detailed analysis of the impact of the proposed expenditure on

the availability of any federal funds for this purpose; and provided further, that the department may increase maximum assistance for which a household is eligible to reflect the needs of such households. In increasing benefit levels as required herein, the department shall establish benefit levels reasonably designed to expend all available state and federal funds and, in the event that federal funds to the state program are not allocated by October 1, 2005, shall establish a baseline assumption that the state will receive no less federal funding than it received in fiscal year 2005 \$20,000,000.

SECTION 3. Section 19 of chapter 25 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 1, the figure "10" and inserting in place thereof the following figure:- 15.

SECTION 4. Said section 19 of said chapter 25, as so appearing, is hereby further amended by striking out, in line 11, the figure "2007" and inserting in place thereof the following figure:- 2012.

SECTION 5. Said section 19 of said chapter 25, as so appearing, is hereby further amended by striking out, in line 29, the figure:- "2006" and inserting in place thereof the following figure:- 2011.

NO SECTION 6.

SECTION 7. Section 11C of chapter 25A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out subsections (a) to (e), inclusive, and inserting in place thereof the following 12 subsections:-

(a) As used in this section, the following words shall have the following meanings:

"Eligible", able to meet all requirements for offerors or bidders set forth in this section including, without limitation, being certified by the division of capital asset management and maintenance as eligible to provide energy management systems services and not debarred from bidding under section 44C of chapter 149 or any other applicable law.

"Energy conservation measures", measures involving modifications or maintenance and operating procedures of a building or facility and installations therein, which are designed to reduce energy consumption in such building or facility, or the installation, modification of an installation in a building or facility which is primarily intended to reduce energy consumption.

"Energy conservation projects", projects to promote energy conservation, including but not limited to, energy conserving modification to windows and doors; caulking and weather-stripping; insulation, automatic energy control systems; hot water systems; equipment required to operate variable steam, hydraulic, and ventilating systems; plant and distribution system modifications including replacement of burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions; replacement or modification of lighting fixtures; energy recovery systems; and, cogeneration systems.

"Energy management services", a program of services, including energy audits, energy conservation measures, energy conservation projects, or a combination thereof, and building maintenance and financing services, primarily intended to reduce the cost of energy and water in operating 1 or more buildings, which may be paid for in whole or in part, by cost savings attributable to a reduction in energy and water consumption which result from the services.

"Energy management systems", the design and installation of systems or maintenance programs to conserve energy use within a building, including, without limitation, performance-contracting energy saving projects; the installation or modification of new and existing equipment which will reduce energy and water consumption associated with heating, ventilation, and air conditioning system, lighting system, building envelope, domestic hot water system, and other energy and water using devices; and the work associated with monitoring and verifying project savings and the study or design of the subject work, whether performed directly or managed through subcontractors.

"Energy savings", a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of 1 or more energy management services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed pursuant to the guaranteed energy savings contract.

"Guaranteed energy savings contract", a contract for the evaluation, recommendation or implementation of 1 or more energy management services in which payments are based, in whole or in part, on any energy savings attributable to the contract.

"Person", any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

"Public agency", a department, agency, board, commission, authority, or other instrumentality of the commonwealth or political subdivision of the commonwealth or 2 or more subdivisions thereof.

"Qualified provider", responsible and eligible person able to meet all requirements set forth in this section, and not debarred from bidding under section 44C of chapter 149 or any other applicable law and experienced in the design, implementation, and installation of energy savings measures.

"Request for qualifications", a solicitation directed to qualified providers issued by a public agency to obtain energy management services pursuant to a guaranteed energy savings contract subject to the provisions of this section. The request for qualifications shall include the following:

- (1) The name and address of the public agency.
- (2) The name, address, title, and phone number of a contact person.
- (3) The date, time, and place where qualifications must be received.
- (4) A description of the services to be procured, including a facility profile with a detailed description of each building involved and accurate energy consumption data for the

most recent 2 year period, stated objectives for the program, a list of building improvements to be considered or required and a statement as to whether the proposed improvements will generate sufficient energy savings to fund the full cost of the program.

(5) The evaluation criteria for assessing the qualifications.

(6) A statement that the public agency may cancel the request for qualifications, or may reject in whole or in part any and all energy savings measures, when the public agency determines that cancellation or rejection serves the best interests of the public.

(7) Any other stipulations and clarifications the public agency may require, which shall be clearly identified in the request for qualifications.

"Responsible", demonstrably possessing the skill, ability and integrity necessary to faithfully perform the work called for by a particular contract, based upon a determination of competent workmanship and financial soundness in accordance with the provisions of section 44D of chapter 149.

(b) A public agency may enter into a guaranteed energy savings contract in order to achieve energy savings at facilities in accordance with this section.

(c) All energy savings measures shall comply with current local, state, and federal construction and environmental codes and regulations.

(d) Before entering into a guaranteed energy savings contract, a public agency shall issue a request for qualifications. Public notice of the request for qualifications shall conform to the procedures set forth in subsection (1) of section 44J of chapter 149. At least 1 week before soliciting a request for qualifications for a guaranteed energy savings contract, a public agency shall notify the commissioner of energy resources in writing, in a form and including information as the commissioner of the division of capital asset management and maintenance shall prescribe by regulation, of the agency's intent to solicit qualifications. The notification, at a minimum, shall include a copy of the agency's request for qualifications. An acknowledgment of receipt, in a form and including information as the commissioner of the division of capital asset management and maintenance shall prescribe by regulation, shall be issued by the commissioner of energy resources to the public agency upon successful compliance with the requirements of this subsection. Qualifications shall be opened publicly, in the presence of 2 or more witnesses, at the time specified in the request for qualifications, and shall be available for public inspection. The provisions of sections 44A, 44B and 44E to 44H, inclusive, of chapter 149 shall not apply to contracts procured pursuant to this section. Section 44D of said chapter 149 shall apply as appropriate to qualifications submitted for contracts under this section, and every such qualification shall be accompanied by (1) a copy of a certificate of eligibility issued by the commissioner of the division of capital asset management, and (2) by an update statement.

The public agency shall evaluate the qualified providers to determine which best meets the needs of the public agency by reviewing the following:-

(1) references of other energy savings contracts performed by the qualified providers;

(2) the certificate of eligibility and update statement provided by the qualified providers;

- (3) quality of the products proposed;
- (4) methodology of determining energy savings;
- (5) general reputation and performance capabilities of the qualified providers;
- (6) substantial conformity with the specifications and other conditions set forth in the request for qualifications;
- (7) time specified in the qualifications for the performance of the contract; and
- (8) any other factors the public agency considers reasonable and appropriate, which factors shall be made a matter of record.

Respondents shall be evaluated only on the criteria set forth in the request for qualifications.

The public agency shall conduct discussions with, and may require public presentations by, each person who submitted qualifications in response to the request for qualifications regarding their qualifications, approach to the project, and ability to furnish the required services. The public agency shall select in order of preference 3 such persons, unless fewer persons respond, they consider to be the most highly qualified to perform the required services. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations conducted pursuant to subsection (f).

(e) The public agency may cancel a request for qualifications, or may reject in whole or in part any and all proposals when the public agency determines that cancellation or rejection serves the best interests of the public agency. The public agency shall state in writing the reason for a cancellation or rejection.

(f) The public agency shall negotiate a contract with the most qualified person at compensation which the public agency determines is fair, competitive, and reasonable. Should the public agency be unable to negotiate a satisfactory contract with the person considered to be the most qualified at a price the public agency determines to be fair, competitive, and reasonable, negotiations with that person shall be formally terminated. The public agency shall then undertake negotiations with the second most qualified person. Failing accord with the second most qualified person, the public agency shall terminate those negotiations and then undertake negotiations with the third most qualified person. Should the public agency be unable to negotiate a satisfactory contract with any of the selected persons, the public agency may select additional qualified providers who responded to the request for qualifications, in the order of their competence and qualification, and continue negotiations in accordance with this subsection until either an agreement is reached or the public agency cancels the request for qualifications.

(g) The decision of a public agency as defined by section 1, regarding the selection of a qualified provider shall be final and not subject to appeal except on the grounds of fraud or collusion.

(h) The public agency shall provide public notice of the meeting at which it proposes to award the guaranteed energy savings contract, of the name of the parties to the proposed

contract, and of the purpose of the contract. The public notice shall be made at least 10 days before the meeting. The public agency shall promptly publish in the central register notice of the award. The public agency shall promptly publish in the central register notice of the award and those public agencies other than state agencies and building authorities shall notify the commissioner of energy resources of such award and provide a copy of the guaranteed energy savings contract.

(i) The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the amount of energy savings guaranteed will be achieved or the qualified provider shall reimburse the public agency for the shortfall amount. Methods for measurement and verification of guaranteed savings shall conform to the most recent standards established by the Federal Energy Management Program of the United States Department of Energy. The commissioner of energy resources shall enforce the requirements of this section and regulations promulgated hereunder as they relate to public agencies except for state agencies and building authorities and shall have all the necessary powers to require compliance therewith. The commissioner of the division of capital asset management and maintenance shall enforce the regulations as they relate to state agencies and building authorities. Any order of the commissioner of energy resources under this subsection shall be effective and may be enforced according to its terms, and enforcement thereof shall not be suspended or stayed by the entry of an appeal therefrom. The superior court for Suffolk county shall have jurisdiction over appeals of orders of the commissioner of energy resources under this subsection, and shall also have jurisdiction upon application of the commissioner to enforce all orders of the commissioner under this subsection. The burden of proof shall be upon the appealing party to show that the order of the commissioner is invalid. An aggrieved person shall not be required to seek and order from the commission as a condition precedent to seeking any other remedy. The value of guaranteed savings may represent either all, or part of annual payments at the discretion of the agency. The guaranteed energy savings contract term for providing a guarantee, measurement and verification, maintenance, service and installment or lease payments shall not exceed 20 years. The division of capital asset management and maintenance, in concurrence with the state inspector general, shall promulgate regulations for the procurement of energy management services, including establishing safeguards to be included in guarantee energy savings contracts. The regulations shall require the submission, at least annually, of information as the commission of the division of capital asset management and maintenance and the state inspector general consider necessary in order to monitor the costs and benefits of contracts for energy management services.

(j) Payments under a contract for energy management services may be based in whole or in part on any cost savings attributable to a reduction in energy and water consumption due to the contractor's performance or revenues gained due to the contractor's services which are aimed at energy and water cost savings.

(k) Unless no other manner of description suffices, and the public agency so determines in writing, setting forth the basis for the determination, all requirements shall be

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written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary supply or service, or a procurement from a sole source.

(l) Before entering into a guaranteed energy savings contract, the public agency shall require the qualified provider to file with the public agency a payment or a performance bond relating to the installation of energy savings measures, in an amount equal to 100 per cent of the estimated contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

(m) Guaranteed energy savings contracts may extend beyond the fiscal year in which they become effective.

SECTION 8. Section 1 of chapter 30B of the General Laws, as so appearing, is hereby amended by inserting after the word "thirty", in line 6, the following words:- , section 11C of chapter 25A.

SECTION 9. Chapter 63 of the General Laws is hereby amended by inserting after section: 38S the following section: -

Section 38T. (a) A credit of up to \$300 or 15 per cent, whichever is less, of the aggregate cost of the purchase and installation of a solar water heating system shall be allowed per return against the taxes imposed by this chapter for the cost of the retail purchase and installation of a solar water heating system in a commercial building.

(b) The commissioner of revenue shall promulgate rules and regulations necessary for the implementation of this section. The rules and regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

SECTION 10. Section 38T of said chapter 63, inserted by section 9 of this act, is hereby repealed.

SECTION 11. Section 1F of chapter 164 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 83, the figure "175" and inserting in place thereof the following figure:- 200.

SECTION 12. Subparagraph (i) of clause (4) of said section 1F of said chapter 164, as so appearing, is hereby amended by adding the following 2 paragraphs: -

In a program year in which maximum eligibility for the low-income home energy assistance program, or its successor program, exceeds 200 per cent of the federal poverty level, a household that is income eligible for the low-income home energy assistance program shall be eligible for the low-income discount rates required by this subparagraph.

The department is hereby directed to increase the low-income discount eligibility rate from 175 per cent of the federal poverty level to 200 per cent of the federal poverty level, as found in regulation 220 CMR 14.03(2A).

SECTION 13. Subparagraph (iii) of said clause (4) of said section 1F of said chapter 164, as so appearing, is hereby amended by adding the following paragraph: -

The department shall promulgate rules and regulations requiring utility companies organized pursuant to this chapter to produce information, in the form of a mailing, or other

approved method of distribution, to their consumers, to inform them of available rebates, discounts, credits, and other cost-saving mechanisms that can help them lower their monthly utility bills, and send out such information semi-annually, unless otherwise provided by this chapter.

SECTION 14. Notwithstanding any general or special law, rule or regulation to the contrary, for taxable years 2005 and 2006, there shall be deducted from the adjusted gross income in determining taxable income: up to \$800 for the cost of home heating oil, natural gas, and propane. The deduction shall be available to single persons if the taxpayer's adjusted gross income is equal to or less than \$50,000 and to joint filers and single persons who qualify as a head of households if the taxpayer's adjusted gross income is equal to or less than \$75,000.

(a) The deductions may be used only for the cost of home heating oil, natural gas and propane purchased between November 1, 2005 and March 31, 2006.

(b) Any taxpayer entitled to a deduction under this section may apply the deduction in taxable year 2005 for purchases made in 2005. If the taxpayer does not take the full \$800 deduction in taxable year 2005, the taxpayer may take the remainder in taxable year 2006 for purchases made in 2006 through March 31, 2006.

(c) The commissioner of revenue shall promulgate rules and regulations necessary to implement this section. The commissioner shall also include in such rules and regulations eligibility provisions for a taxpayer who owns a condominium or a cooperative dwelling and for whom such purchases are accounted for in a common area fee or special assessment against such costs as may be reasonably attributed to the percentage ownership share of the condominium or cooperative dwelling costs; and provided further, that the commissioner shall also include in such rules and regulations eligibility provisions for a taxpayer who rents a residential dwelling and for whom such purchases are accounted for in the rent and provisions that account for multiple renters in a residential dwelling. The department shall file a copy of any rules and regulations with the clerks of the senate and house of representatives and with the joint committee on revenue.

SECTION 15. (a) Notwithstanding any general or special law or rule or regulation to the contrary, an owner of residential property located in the commonwealth shall be allowed a one-time credit against the tax imposed by chapter 62 of the General Laws for all energy efficient items purchased on or after November 1, 2005, but not later than March 31, 2006 for installation in said property. The credit allowed for such purchases for installation in any residential building shall equal 30 per cent of the cost; provided further, that said credit shall not exceed \$600 for residential dwelling or \$1,000 for a multi-unit dwelling. Joint owners of a residential property shall share any credit available to the property under this section in the same proportion as their ownership interest.

(b) The credit allowed under this section may be taken in taxable year 2005 or 2006, regardless of the exact date on which any qualifying purchases were made. The amount of credit that exceeds the total tax due for the taxable year in which the credit is taken may be

carried over, as reduced, and applied against the tax liability for the next taxable year; in no taxable year shall the amount of the credit allowed exceed the total tax due of the taxpayer for the relevant taxable year.

(c) The commissioner of revenue shall promulgate such rules and regulations as may be necessary for the implementation of this section. The commissioner shall also include in such rules and regulations eligibility provisions for a taxpayer who owns a condominium or a cooperative dwelling and for whom such purchases are accounted for in a common area fee or special assessment against such costs as may be reasonably attributed to the proportionate ownership share of the condominium or cooperative dwelling costs. The department shall file a copy of any rules and regulations with the clerks of the senate and house of representatives and with the joint committee on revenue.

(d) As used in this section, the following words shall have the following meanings: "Energy efficient heating items", shall include, but not be limited to, home insulation, new window installation, advanced programmable thermostats, fuel efficient furnaces, boilers, oil, gas, propane or electric heating systems, solar domestic hot water systems, materials for insulation or sealing of a duct, attic, basement, rim joint or wall and pipe insulation for heating systems.

"Net expenditure", the total of the purchase price for all energy efficient items, plus installation cost, less any credits received pursuant to the Internal Revenue Code, any grants or rebates received from the United States department of housing and urban development, and any rebates or discounts received from an electric utility or gas utility.

SECTION 16. Notwithstanding any general or special law or rule or regulation to the contrary, an owner of residential property located in the commonwealth shall be allowed a one-time credit against the tax imposed by chapter 63 of the General Laws for all energy efficient items purchased on or after November 1, 2005, but not later than March 31, 2006, for installation in that property. The credit allowed for such purchases for installation in any 1 residential building shall equal 30 per cent of the cost; provided further, that said credit shall not exceed \$600 for residential dwelling or \$1,000 for a multi-unit dwelling. Joint owners of a residential property shall share any credit available to the property under this subsection in the same proportion as their ownership interest.

The credit allowed under this section may be taken in the taxable year 2005 or 2006 in which any qualifying purchase was made. The amount of credit that exceeds the total tax due for the fiscal year in which the credit is taken may be carried over, as reduced, and applied against the tax liability for the next taxable year; provided, however, that in no fiscal year may the amount of the credit allowed exceed the total tax due of the taxpayer for the relevant taxable year.

The commissioner of revenue shall promulgate such rules and regulations as may be necessary for the implementation of this section; provided, however, that the commissioner shall also include in such rules and regulations eligibility provisions for a taxpayer who owns a condominium or a cooperative dwelling and for whom such purchases are accounted for in a common area fee or special assessment against such costs as may be reasonably attributed to the proportionate ownership share of the condominium or cooperative dwelling

costs. The department shall file a copy of any rules and regulations with the clerk of the senate and of the house of representatives and with the joint committee on revenue.

As used in this section the following words shall have the following meanings:-

"Energy efficient heating items", shall include, but not be limited to, home insulation, new window installation, advanced programmable thermostats, fuel efficient furnaces, boilers, oil, gas, propane, or electric heating systems, solar domestic hot water systems, materials for insulation or sealing of a duct, attic, basement, rim joint or wall and pipe insulation for heating systems.

"Net expenditure", the total of the purchase price for all energy efficient items, plus installation cost less any credits received pursuant to the Internal Revenue Code, any grants or rebates received from the United States department of housing and urban development, and any rebates or discounts received from an electric utility or gas utility.

SECTION 17. (a) Notwithstanding any general or special law to the contrary, the department of telecommunications and energy shall initiate a generic proceeding, not later than December 1, 2005 to develop standards that shall apply to each electric and gas company regarding the adoption of an arrearage management program for eligible low-income customers, as defined under chapter 164 of the General Laws. The department shall require each such company to file by December 30, 2005 an arrearage management program that includes all relevant operational details, including a plan to coordinate the arrearage management plan with the low-income weatherization and fuel assistance agencies and services. Upon approval by the department, said company shall implement its program. The department shall review and approve each program with such modifications as the department deems appropriate, no later than February 28, 2006. The department shall conduct an annual review of such programs and may at any time order such revisions or modifications as the department deems appropriate. For purposes of this section, an arrearage management program shall include a plan under which companies work with eligible low-income customers to establish affordable payment plans and provide credits to those customers toward the accumulated arrears where such customers comply with the terms of the program.

(b) The department shall require a company that initially offers a low income customer who has an arrearage, but whose utility service has not yet been terminated, a payment plan of not less than 4 months including the initial down payment of 25 per cent of the balance owed, and the remaining repayment balance amounts shall be divided equally; but, a company that seeks a repayment agreement of less than 4 months shall request approval from the department for good cause shown. A company making such a request shall notify the customer that the request has been made. This paragraph shall not limit the right of a customer to request a payment plan of more than 4 months or limit the authority of the department to order a payment plan of more than 4 months either on an individual basis or through revisions to its billing and termination regulations.

SECTION 18. Notwithstanding any general or special law to the contrary the Massachusetts Technology Park Corporation shall, in consultation with the division of energy resources, establish a program to expand the production and use of clean, on-site dis-

tributed renewable resources by offering or causing to be offered zero interest loans to residential customers in the commonwealth to promote the purchase and installation of photovoltaic systems that will be connected to the electric distribution grid. The program shall be funded by the Massachusetts Renewable Energy Trust Fund established in section 4E of chapter 40J of the General Laws; provided, however, that the fund shall expend not less than \$1,000,000 for the purposes of this program; provided further, that these funds and all other funds expended by the corporation in furtherance of the increased installation and use of distributed renewable generation resources by the corporation shall be deemed to be expended for the primary purpose of protecting or restoring the environment as such terms are defined in Section 126(b) of the Internal Revenue Code, as amended, and the implementing regulation set forth in Title 7 CFR Part 14. The program shall make such loans available for purchases made on or after March 1, 2006. The corporation may set standards and adopt rules and regulations to carry out the purposes of this section including, but not limited to, establishing applicant eligibility criteria, application forms and procedures, and photovoltaic system requirements. The corporation shall make or cause to be made loans to low, moderate and upper moderate income residential customers before other applicants. The corporation shall submit a report detailing the standards, rules and regulations to the joint committee on telecommunication, utilities and energy not later than February 1, 2006.

SECTION 19. Notwithstanding any general or special law to the contrary, the division of capital asset management and maintenance shall, in consultation with the Massachusetts Technology Park Corporation, develop a plan to sustain and enhance the position of Massachusetts as a national leader in promoting green buildings by integrating renewable energy technologies and sustainable, high performance design concepts into buildings and facilities that are owned, operated, leased or otherwise controlled by the commonwealth or the University of Massachusetts and to develop a standard by which to benchmark the implementation of said plan. The plan shall analyze the feasibility, costs, benefits, and barriers to designing and constructing new buildings, and renovating existing buildings including, but not limited to, developing plans to: (1) increase by at least 50 per cent by 2010, the inclusion of renewable energy technology as a source of energy generation and efficiency; (2) substantially exceed building code energy standards; (3) minimize electricity usage through energy efficiency measures and on-site, renewable energy technologies; (4) provide healthy and productive environments for building occupants; and (5) minimize incremental, additional costs incurred to design and construct a green building. The plan may include recommendations to support increased energy efficiency and integration of renewable technologies into state buildings, including proposed changes or modifications to state or federal laws or regulations. The plan shall include recommended funding levels and funding sources. The corporation shall submit the plan to the executive office for administration and finance, the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, and the joint committee on telecommunication, utilities and energy not later than May 1, 2006.

SECTION 20. Notwithstanding any general or special law to the contrary, the Mass-

Massachusetts Technology Park Corporation shall establish the Massachusetts Fuel Cell Partnership to develop a strategic framework to accelerate the development and deployment of commercially viable fuel cell and related hydrogen production, storage and distribution technologies and to support the growth and development of the fuel cell industry cluster in the commonwealth. The partnership may draw on the participation of companies, academic institutions, state and federal agencies, nonprofit organizations, trade associations, including the Massachusetts Hydrogen Coalition and other parties. The strategic framework developed by the partnership may include, but shall not be limited to the following: (1) identification of the members of the fuel cell cluster; (2) identification and analysis of the needs of cluster members; (3) identification and analysis of technical, scientific, financial, legal, and regulatory obstacles to the development of commercially viable fuel cell and related enabling technologies; (4) analysis of opportunities to leverage federal research and development funding and improve the competitiveness of Massachusetts entities to attract such federal and other funding sources; and (5) identification and development of the parameters, mission, and a pro forma budget for establishing and operating a fuel cell research and testing center which may be located at a qualified Massachusetts institution of higher education; and (6) development of an action plan, including funding recommendations, to address the identified needs of the fuel cell cluster and potential means to improve the global competitive position of the fuel cell cluster. The corporation shall submit copies of the strategic framework to the joint committee on economic development and emerging technologies and the joint committee on telecommunication, utilities and energy no later than June 15, 2006.

SECTION 21. Notwithstanding any general or special law to the contrary, local authorities may amend existing energy service agreements to bring products and services to additional buildings or assets in the community. The amendments may be accomplished through negotiation with the selected energy services provider.

SECTION 22. Notwithstanding any general or special law to the contrary, all guaranteed energy savings contracts, as defined in subsection (a) of section 11C of chapter 25 of the General Laws shall be compliant with prevailing wage statutes, sections 26 to 27D, inclusive, of chapter 149 of the General Laws.

SECTION 23. Notwithstanding any general or special law to the contrary, a person working for a public agency, as defined in subsection (a) of section 11C of chapter 25 of the General Laws, shall abide by all applicable licensing laws of the commonwealth for contracts or work awarded under this act, including electrical, heating, plumbing, air conditioning and other categories subject to licensing.

SECTION 23A. The commissioner of energy resources shall establish a pilot program, hereinafter referred to as the HEAT Loan Program, to assist consumers with the purchase of energy efficient items for residential home modifications. For the purposes of this program, energy efficient items shall include home insulation, new window installation, advanced programmable thermostats, fuel efficient furnaces, boilers, oil, gas, propane, or heating systems, solar domestic or fuel efficient hot water systems, materials for insulation or sealing of a duct, attic, basement, rim joint or wall and pipe insulation for heating systems or other retail items for use in a residential dwelling that increase the energy efficiency of

said dwelling.

In establishing the program, the commissioner shall develop a list of qualified state or federally chartered banking institutions or credit unions that do business in the commonwealth and that are governed by chapter 167 or 171 of the General Laws as participatory lending institutions. For the purposes of this section, a qualified lending institution shall include a lending institution, as described herein that is certified by the division and which shall offer zero and low interest loans for the purpose of enhancing the energy efficiency of a residential dwelling. The program shall be funded from that portion of the mandatory charge that is authorized by this section and allocated to residential customers consistent with section 11G of chapter 25A of the General Laws, provided, however, that not less than \$5,000,000 shall be made available to assist participating financial institutions in offering said loan products by or through interest rate write downs or other credit enhancement features, and provided further, that loans offered pursuant to the program shall be offered to residential homeowners in the commonwealth solely for the purposes stated herein. The division shall make such loans available for purchases made on or after January 1, 2006, but not later than December 31, 2006. The division shall establish the rules and guidelines to carry out the purposes of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and energy efficiency product requirements and lending institution tracking and reporting requirements. The division shall submit a report detailing the rules and guidelines to the joint committee on telecommunications, utilities and energy no later than January 1, 2006. The division shall submit a report detailing the program results no later than February 1, 2007 to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means.

SECTION 23B. A credit allowed under section 38T of chapter 63 of the General Laws for the purchase and installation of a solar water heating system in a commercial building between November 1, 2005 and March 31, 2006 may be applied for the taxable year 2006. The taxpayer may carry over and apply to the tax, in taxable year 2007, the portion of those credits which exceed the tax for taxable year 2006 subject to regulations by the commissioner of revenue.

SECTION 23C. On or before January 1, 2006, each utility company organized under chapter 164 of the General Laws shall file with the department a plan, detailing that information regarding available discounts, credits and other cost-saving mechanisms, that will be dispersed to consumers pursuant to section 1F of said chapter 164. The department shall review each plan and make an express finding whether the plan is consistent with or substantially complies with the provisions of this chapter. The department shall permit the implementation of plans approved during 2005.

SECTION 24. Section 10 shall take effect on January 1, 2008.

Items Disapproved: **SECTION 7**, and **SECTION 8**.

Items Added: **SECTION 25**, and **SECTION 26**.

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

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Representatives setting forth recommended amendments.

The remainder of the bill was approved by the Governor on November 22, 2005 at two o'clock and forty-one minutes, P.M.

Chapter 141. AN ACT RELATIVE TO SMART GROWTH ZONING AND HOUSING PRODUCTION.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 40R the following chapter:-

CHAPTER 40S

SMART GROWTH SCHOOL COST REIMBURSEMENT

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

"Additional chapter 70 aid", for each municipality, an amount calculated by the department of education equal to the actual increase in chapter 70 aid payments, including, but not limited to, foundation aid increases and minimum aid increases, that is attributable to the number of each municipality's eligible students from the school district. In the case of a regional school district, the amount of additional chapter 70 aid in the region shall be apportioned among member communities proportionally based upon the number of eligible students from each member municipality. For any municipality with eligible students from more than 1 school district, additional chapter 70 aid shall be the sum of the additional chapter 70 aid at the municipal school district plus the municipality's share of additional chapter 70 aid at each district of which the municipality is a member.

"Average actual net school spending per student", for each school district, the actual net school spending per pupil, as defined by and reported to the department of education, for the immediately preceding fiscal year.

"Division", the division of local services within the department of revenue.

"Education percentage", the average across all communities in the commonwealth of total education expenditures in relation to total municipal expenditures as certified at the end of the preceding fiscal year by the department of revenue. This percentage shall be the total actual net school spending of all districts as defined by the department of education divided by the sum of total General Fund municipal spending and regional school district aid.

"Eligible student", a child living in a new smart growth development that is enrolled as of the prior year in a district or charter school in kindergarten through grade 12, attends a residential or other school pursuant to special education requirements, attends pre-kindergarten or post 12th grade sessions pursuant to special education requirements, or attends a school district through the so-called school choice program, established under section 12B of chapter 76, or a similar program.

"Local smart growth excise tax revenues", for each municipality the total excise taxes for the subject year on vehicles garaged at a new smart growth development, as calculated

by the division.

"Local smart growth property tax revenues", for each municipality, the product of the local levy rate times the amount of assessed valuation due to new smart growth development as certified by the commissioner of revenue, as calculated by the division.

"Local smart growth revenues for education", for each municipality, the product of the education percentage times the sum of local smart growth property tax revenues plus local smart growth excise tax revenues, each for the preceding fiscal year.

"New smart growth development", any new residential or commercial development, including the substantial redevelopment of existing properties, subject to the payment of local property taxes that: (a) occurs in a smart growth zoning district after the adoption of such zoning by the community, and (b) is permitted under the provisions of the smart growth zoning district. A redevelopment shall be considered substantial if its cost exceeds 50 per cent of the building's pre-renovation assessed value or if it constitutes a change in use from nonresidential to residential.

"Smart growth zoning district", a zoning district adopted by a community and approved by the department of housing and community development which is eligible, and which remains eligible for density bonus payments under chapter 40 R.

"Total education cost for eligible students", for each municipality, the product of the total number of eligible students in the prior fiscal year times the average actual net school spending per student as calculated by the department of education. This calculation shall first be made separately for each school district attended by eligible students, and the results of such calculations shall then be summed.

Section 2. Subject to appropriation, for each fiscal year commencing with fiscal year 2008, any city or town that has established 1 or more smart growth zoning districts shall receive smart growth school cost reimbursement from the commonwealth. This reimbursement shall be equal to the positive difference, if any, between: (i) total education cost for eligible students, and (ii) the sum of local smart growth revenues for education plus additional chapter 70 aid. The department of education shall add the smart growth school cost reimbursement amounts to each district's required net school spending, as defined in chapter 70. For purposes of the net school spending calculation, the department shall allocate a municipality's smart growth school cost reimbursement among the districts to which it belongs in proportion to the number of eligible students from the municipality attending each district.

Section 3. (a) Upon certifying and approving a zoning district as a smart growth zoning district under chapter 40 R, the department of housing and community development shall provide a list of all addresses of new smart growth development within each smart growth zoning district, in this chapter called the smart growth address list, to the municipality, the department of education, the division of local services within the department of revenue, and the registry of motor vehicles.

(b) The chief executive officer of every municipality with a smart growth zoning district shall appoint a smart growth reporting officer who shall be responsible for collecting

all relevant data and transmitting it to the appropriate state agencies in a timely fashion. The reporting officer shall transmit the smart growth address list to the superintendent of schools of the municipal school district and to the superintendent of each district or charter school in which local residents were enrolled as of October 1. Superintendents shall provide to the reporting officer a list of each eligible student from the school. The reporting officer shall compile these data into a single list of eligible students, in this chapter called the eligible student list, including the name, address and school district of each eligible student, and transmit the eligible student list to the department of education. The reports and list shall be made in a manner and form to be prescribed by the commissioner of education.

(c) Upon receipt of the eligible student list, the department of education shall certify that all students listed are living in new smart growth development within a smart growth zoning district. Upon such certification, the department shall calculate the additional chapter 70 aid amount, and the total education cost for eligible students and shall transmit the calculation to the division of local services and to the municipal reporting officer.

(d) The reporting officer shall provide the smart growth address list to the municipality's assessors, who shall be responsible for providing the reporting officer with a compilation of all commercial and residential development comprising new smart growth development in the smart growth zoning district and all vehicles garaged therein. Said compilation shall contain the addresses of each parcel within the zoning district, the classification code for each parcel, the assessed value of the parcel, the number of units at each address, the number of vehicles garaged at each address, and the excise tax paid on each vehicle. The reporting officer shall transmit the assessors' list to the registry of motor vehicles and the division of local services. The reports and lists required by this paragraph shall be made in manner and form to be prescribed by the commissioner of revenue.

(e) Upon receipt of the assessors' list, the registrar of motor vehicles shall verify the number of vehicles and the excise tax paid on these vehicles and provide that verification to the division of local services. The division shall use these lists to calculate local smart growth excise tax revenues, local smart growth property tax revenues, and local smart growth revenues for education.

(f) Upon receipt of all data and calculations required by this section, the division of local services shall calculate the smart growth school cost reimbursement pursuant to section 2. Subject to appropriation, the commissioner of revenue shall make a single payment to each municipality for the amount of its smart growth school cost reimbursement; but if the appropriation is insufficient to fully fund the cost of the reimbursement, the division shall calculate the percentage of each municipality's reimbursement as a share of the statewide reimbursement, and pro-rate each municipality's reimbursement proportionally.

(g) The commissioner of revenue, in consultation with the commissioner of education, the director of housing and community development, and the registrar of motor vehicles, shall adopt all regulations necessary to carry out this chapter.

Section 4. The commissioners of revenue and education, the director of housing and community development and the registrar of motor vehicles shall annually report on the cost

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and effectiveness of the reimbursement program. This report shall include, but not be limited to, the number of municipalities which have adopted the provisions of chapters 40R and 40S, the number of smart growth zoning districts in the commonwealth, the number of eligible students per municipality, the number of municipalities receiving the smart growth school cost reimbursement, and the total reimbursement and per pupil reimbursement provided to each municipality. They shall provide the report to the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on housing, the house and senate chairs of the joint committee on community development and small business, the house and senate chairs of the joint committee on education, and the secretary of administration and finance.

SECTION 2. Section 367 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION 3. Notwithstanding any general or special law to the contrary, the smart growth school cost reimbursement required by chapter 40S of the General Laws, shall be included as local aid on the cherry sheets distributed by the division of local services. For fiscal year 2008, the division shall include such calculations as an amendment to the initial cherry sheets. For fiscal year 2009 and after, the division shall include on the cherry sheets an estimated reimbursement amount based on the previous year's reimbursement, and provide updated reimbursement figures upon completion of the required calculations.

SECTION 4. Notwithstanding any general or special law to the contrary, the initial regulations required by section 3 of chapter 40S of the General Laws shall be adopted no later than 150 days after the effective date of this act.

Approved November 22, 2005.

Chapter 142. AN ACT AUTHORIZING THE TOWN OF WEBSTER 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 Webster may grant 1 additional license for the sale of all alcoholic beverages to be drunk on the premises to Fredo's Restaurant, Inc. d/b/a Michael's Place Bar and Restaurant, 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 person, organization, corporation or location.

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

Approved November 22, 2005.

Chapter 143. AN ACT RELATIVE TO THE MORTALITY TABLE FOR PUBLIC EMPLOYEES.

Be it enacted, etc., as follows:

SECTION 1. Section 12 of chapter 32 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following subdivision:-

(4) Any person who retired under chapter 32 between July 1, 2004 and December 27, 2004, inclusive, or the surviving spouse of any such person who is deceased, who elected Option (a) or Option (b) of subdivision (2) may change such selection to Option (b) or Option (c) of said subdivision (2). In paying the retirement allowance under the new election, the board may make appropriate adjustments, or arrange for appropriate repayments, upon such terms and condition as the board may prescribe, so as to recover any overpayments resulting from the prior election; provided, however, that any lump sum distribution paid under Option (b) shall be repaid to the retirement system in 1 lump sum on terms and conditions as the board may prescribe. The change of election under this subdivision shall be made on or before July 1, 2006, and shall be retroactive to the date of retirement. The one time election to change retirement options under this subdivision shall be in a manner prescribed by the retirement board; provided, however, that the retirement board shall have 180 days after the submission of an application to change the retirement option filed under this subdivision to implement said change.

SECTION 2. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall review the combined table of mortality and select a new table of mortality on or before January 1, 2014 and thereafter every 10 years.

Approved November 22, 2005.

Chapter 144. AN ACT AUTHORIZING THE REFUND OF AUTOMOBILE SALES TAX TO HELEN BERGMAN OF THE TOWN OF WILMINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 64H of the General Laws, the commissioner of the department of revenue with the approval of the treasurer of the commonwealth shall refund the sum of \$390 out of available funds to Helen Bergman of the town of Wilmington, which sum represents the amount of sales tax paid for the purchase of her car which car was returned to the owner after the period for filing an abatement had expired.

SECTION 2. Notwithstanding any general or special law to the contrary, the inspector general is appointed as trustee to receive proceeds of a rebate relative to sewer construction, and disburse them to certain citizens and entities located in the city of Gloucester, not to exceed the amount of \$350,000. Quarterly reports shall be filed with the

house and senate committees on ways and means until such funds have been disbursed in full.

Approved November 22, 2005.

Chapter 145. AN ACT RELATIVE TO ORGAN AND TISSUE DONATIONS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 8 of chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following sentence:- Each applicant shall be asked in writing whether he wishes to become an organ or tissue donor in such license application or renewal thereof.

SECTION 2. Section 8E of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

Each applicant shall be asked in writing whether he wishes to become an organ or tissue donor in the application. The registrar shall provide to federally designated organ procurement organizations and other federally registered nonprofit eye and tissue banks serving the commonwealth access to names, dates of birth and other pertinent information of such identification holders in the same manner as provided for licensed drivers under section 8D.

SECTION 3. Chapter 113 of the General Laws is hereby amended by striking out section 5A, as so appearing, and inserting in place thereof the following section:-

Section 5A. (a) The chief medical examiner or his designee shall provide the federally designated organ procurement organization and other federally-registered nonprofit eye and tissue banks located in the commonwealth with information necessary to facilitate organ and tissue donation including, but not limited to, names and contact information of individuals whose deaths have been reported pursuant to chapter 38, and autopsy reports on donors whose deaths are under investigation. In case of a suspicious death where the district attorney is controlling the investigation pursuant to chapter 38, the chief medical examiner or his designee shall not provide an autopsy report unless he is informed by the district attorney that he may do so. A health care professional authorized to remove an anatomical gift from a donor whose death is under investigation shall remove the donated part from the donor's body for the acceptance by a donee, after giving notice to the chief medical examiner or district attorney, or their respective designees, subject to this section. The chief medical examiner and the district attorney, or their respective designees, shall approve or deny removal of the anatomical gift within the time provided by law to ensure the preservation of the anatomical gift for transplantation. The chief medical examiner, or his designee, may permit the removal of the anatomical gift at the medical examiner's office. The chief medical examiner or district attorney, or their respective designees, shall be present during the removal of the anatomical gift if in their judgment such attendance would, in the opinion of

the chief medical examiner or district attorney, or their respective designees, facilitate a donation that would otherwise be denied. In that case, the chief medical examiner or district attorney, or their respective designees, may request a biopsy or deny removal of the anatomical gift and shall explain the reasons for determining that those tissues or organs may be involved in the cause of death.

(b) No medical examiner, physician, federally designated organ procurement organization, or federally registered nonprofit eye or tissue bank who acts or attempts to act in good faith in accordance with this section shall be liable for that act in a civil action or criminal proceeding.

SECTION 4. Section 7 of said chapter 113, as amended by section 9 of chapter 27 of the acts of 2005, is hereby further amended by striking out the definition of "Donor" and inserting in place thereof the following 3 definitions:-

"Document of gift", an organ and tissue donor card, inclusion in a donor registry, a statement attached to or imprinted on a driver's license or an identification card issued by the registrar of motor vehicles, a will or other writing used to make an anatomical gift.

"Donor", an individual who makes a gift of all or part of his body.

"Donor registry", an electronic database identifying donors that is developed and maintained by a federally designated organ procurement organization or federally registered nonprofit eye or tissue bank serving the commonwealth.

SECTION 5. Section 8 of said chapter 113, as appearing in the 2004 Official Edition, is hereby amended by striking out subsection (b) to (g), inclusive, and inserting in place thereof the following 5 subsections:-

(b) An organ or tissue donation, regardless of the document of gift making such donation, that is not revoked by the donor before death shall be irrevocable and shall require the consent or concurrence of a person after the donor's death.

(c) On or before the occurrence of death in an acute hospital, the federally designated organ procurement organization or federally registered nonprofit eye or tissue bank shall inform any of the persons listed below in the order of priority stated when persons in prior classes are not available, whether or not the decedent authorized a gift, of the opportunity to authorize a gift of all or part of the decedent's body for purposes of organ and tissue transplantation as provided in section 9, if no actual notice of contrary intentions by the person has been received and if consent to such donation could yield an organ or tissue suitable for transplantation. The order of priority of such persons shall be:-

- (1) spouse;
- (2) an adult son or daughter;
- (3) a parent;
- (4) an adult brother or sister;
- (5) a health care proxy;
- (6) a guardian of the body of the decedent at the time of his death; and
- (7) any other person authorized or under obligation to dispose of the body.

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(d) If the donee has actual notice of contrary indications by the decedent, or that a gift authorized by a member of a class is opposed by a majority of individuals in the same or a prior class, the donee shall not accept the gift. A person authorized in subsection (c) may make the gift after death or immediately before death.

(e) A gift of all or part of a body authorizes premortem tests and any other examination necessary to assure medical acceptability of the gift for the purposes intended by the donor.

(f) The rights of the donee created by the gift shall supercede the rights of others except as provided in subsection (d) of section 13.

SECTION 6. Section 10 of said chapter 113, as so appearing, is hereby amended by striking out, in lines 32 and 41, the words "subsection (b)" and inserting in place thereof, in each instance, the following word:- subsection (c).

SECTION 7. Section 14 of said chapter 113 is hereby repealed.

Approved November 22, 2005.

Chapter 146. AN ACT AUTHORIZING THE TOWN OF FAIRHAVEN TO GRANT AN ADDITIONAL 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, the licensing authority of the town of Fairhaven may grant an additional license for the sale of wines and malt beverages to be drunk on the premises to Chris Boonprasert of Sivalai Thai Cuisine, at 130 Sconticut Neck road in the town of Fairhaven 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 person, organization, corporation or location.

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

Approved November 22, 2005.

Chapter 147. AN ACT RELATIVE TO GENETIC TESTING RESULTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to prohibit forthwith discrimination on the basis of genetic testing results, 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. Section 24A of chapter 254 of the acts of 2000 is hereby repealed.

SECTION 2. Section 25A of chapter 254 of the acts of 2000 is hereby repealed.

SECTION 3. Section 31 of chapter 254 of the acts of 2000 is hereby repealed.

Approved November 22, 2005.

**Chapter 148. AN ACT AUTHORIZING TRANSFER OF CERTAIN
CONSERVATION LAND IN THE TOWN OF FALMOUTH.**

Be it enacted, etc., as follows:

The town of Falmouth may transfer care, custody and control of a certain parcel of conservation land from the conservation commission to the board of selectmen to be used for the purposes of water resource protection, water supply, open space, conservation and public access to Mares Pond. The parcel is shown as Parcel A on a plan of land entitled "Town of Falmouth, Massachusetts Plan of a Part of Land Acquired Pursuant to Article 1, April 8, 1986 Special Town Meeting Showing Jurisdiction of Board of Selectmen and Conservation Commission" prepared for the public works department of the town of Falmouth, dated January 2, 2002, prepared by William MacKenzie P.L.S.

No document transferring care, custody, control or management of the property described in this act shall be valid unless the document provides that the property shall be used solely for the purposes of a water tower and an appropriate buffer for water resource protection as described in this act. Any such document shall include a reversionary clause stipulating that the property will revert to the Falmouth conservation commission for conservation and open space purposes if the property ceases to be used for the express purposes for which it was transferred.

Approved November 22, 2005.

**Chapter 149. AN ACT AUTHORIZING THE TOWN OF WINCHENDON TO USE
A PORTION OF A CERTAIN PARCEL OF PUBLIC PARK LAND
FOR LIBRARY PURPOSES.**

Be it enacted, etc., as follows:

SECTION 1. The town of Winchendon is hereby authorized to use a portion of a certain parcel of land previously acquired and maintained as a public park for purposes of

providing a driveway and parking area to the Beals Memorial Library. Said portion consisting of fifty feet (50'), more or less, along the northern boundary of the park and the northwest portion of the parcel as shown in Map 5B2, Parcel 284 and described on a plan entitled, "Proposed Use of Former Park Land for the Beals Memorial Library, Winchendon, Massachusetts, Prepared February 24, 2000," which is on file in the town clerk's office.

SECTION 2. No document transferring care, custody, control or management of the property described in section 1 shall be valid unless the document provides that the property shall be used solely for the purposes of providing access and parking for the Beals Memorial Library as described in section 1. The document shall include a reversionary clause that stipulates that the property shall revert to the town of Winchendon for public park purposes if the property ceases to be used for the express purposes described in section 1.

SECTION 3. The town of Winchendon shall transfer, for conservation purposes, a parcel of land which is currently under the care, custody, management and control of the board of selectmen. If there is no suitable parcel, the town shall grant a conservation restriction, as defined in section 31 of chapter 184 of the General Laws, on a parcel of land, which is currently under the care, custody, management and control of the board of selectmen for general municipal purposes, to the town's conservation commission. Any parcel transferred or dedicated pursuant to this section shall be of size and value equal to or greater than that of the portion of the parcel described in section 1.

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

Approved November 22, 2005.

Chapter 150. AN ACT AUTHORIZING THE TOWN OF SPENCER TO LEASE CERTAIN PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. The town of Spencer, acting by and through its board of selectmen, may lease a certain parcel of park land, located in the town, to the Spencer Agricultural Association for a term of 25 years with a single 10 year option to renew. The total lease payments shall not be less than \$10,000. The parcel is shown as Parcel 28 on the town of Spencer's Assessors Map R-32.

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

Approved November 22, 2005.

Chapter 151. AN ACT AUTHORIZING THE CITY OF BROCKTON TO CONVEY CERTAIN PARK LAND.

Be it enacted, etc., as follows:

SECTION 1. The city of Brockton, acting by and through its mayor and city council, may convey a certain parcel of land acquired for park, recreational and conservation purposes to Bay State Gas Company. Consideration paid for said parcel shall be \$500,000. Said parcel is shown as Lot 1 on a plan of land entitled "Subdivision Plan of Land, Grove Street, Brockton, Mass." dated October 3, 2003 and prepared by Harry R. Feldman, Inc., which is on file in the office of the city clerk. The grantee shall assume the costs of all appraisals, studies, surveys and other expenses related to the conveyance.

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

Approved November 22, 2005.

Chapter 152. AN ACT AUTHORIZING THE CITY OF TAUNTON TO LEASE CERTAIN RECREATIONAL LAND.

Be it enacted, etc., as follows:

SECTION 1. The city of Taunton may lease a certain parcel of park and recreational land located in said city for a term not to exceed 40 years. This parcel is identified as the John F. Parker Municipal Golf Course. The lease shall be subject to section 16 of chapter 30B of the General Laws. The lease may provide that the lessee shall be responsible for the design, development, construction, operation and extension of a golf course and recreational facilities on this land.

SECTION 2. If the lessee is responsible for the design, development, construction and extension of the golf course, then the design and construction of the golf course shall be exempt from sections 38A ½ to 38O, inclusive, of chapter 7 and sections 44A to 44H, inclusive, of chapter 149 of the General Laws.

Approved November 22, 2005.

Chapter 153. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF SALISBURY FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of chief of police in the town of Salisbury shall be exempt from chapter 31 of the General Laws.

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SECTION 2. Section 1 of this act shall not impair the civil service status of any person holding the position of chief of police in the town of Salisbury on the effective date of this act.

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

Approved November 22, 2005.

Chapter 154. AN ACT AUTHORIZING THE CONVEYANCE OF A CERTAIN PARCEL OF COMMONWEALTH LAND TO THE CITY OF REVERE FOR PUBLIC PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance may convey a certain parcel of state-owned land in the city of Revere to the city of Revere for the construction of a public safety facility. The parcel is shown on a plan of land entitled "Revere Beach Parkway Plan of Land in Revere, MA, Suffolk County", dated May 18, 2005, drawn by Beals and Thomas, Inc. The commissioner shall determine the exact boundaries of the parcel in consultation with the department of conservation and recreation after completion of a survey.

SECTION 2. In consideration to the commonwealth for the conveyance authorized in section 1, the city of Revere shall convey to the commonwealth by and through its division of capital asset management and maintenance for use by the department of conservation and recreation all parcels of land conveyed to the city of Revere from Vincent LoPresti and Sidney L. Boorstein on December 22, 2000 and recorded in the Suffolk County Registry of Deeds in Book 25713, Page 236. These parcels are part of Belle Isle Marsh, which is part of the Rumney Marshes Area of Critical Environmental Concern, and are currently held for conservation purposes. The parcels are to be held by the commonwealth as conservation land and are more fully described as follows:

That certain parcel of land situated on the Southwesterly side of Pearl Avenue designated as Lots numbered 170, 171 and 172 on said Avenue in the records of said Assessors and bounded northeasterly by Pearl Avenue; southeasterly by land of others; southwesterly by Belle Isle Inlet and by land of others and northwesterly by Orchard Street and containing 20,296 square feet of land according to said records; also

That certain parcel of land situated on the northerly side of Crystal Avenue, designated as lots numbered 350 to 360, both inclusive, Crystal Avenue in the records of said Assessors and containing in the aggregate 59,714 square feet of land according to said records; also

Lots 333 to 348 inclusive Lots 377 to 396 inclusive, part of Lot 376 and a twenty-five (25) foot wide strip contained together about 231,955 square feet more or less, however said

premises may be bounded, measured or described also shown on plan entitled "Supplementary Plan of Section D-Sea Shore Division, Orient Heights, Revere, Massachusetts and Winthrop, June 18, 1882 - Whitman and Breck, Surveyors" recorded with Suffolk Registry of Deeds Book 1561 end.

And further identified as certain parcels shown on the City of Revere Assessors Plate 1 represented as parcels 33, 32, 31, 30, 29, 3, 4 and a 7.2 acre parcel on the southerly side of Crystal Ave abutting lots 3, 4, and 5 of said Plate 1;

And further identified as certain parcels as shown in the City of Revere Block Plan No. 43A September 1933 as Lots 350 to Lots 360 inclusive.

Meaning and intending to convey all right, title and interest in and to all the remaining land in the City of Revere owned by the Grantors, located off Winthrop Parkway and lying south westerly of Pearl Avenue so called.

SECTION 3. The commonwealth shall receive as additional consideration the difference between the full and fair market value of the state parcels described in section 1 minus the full and fair market value of the parcels described in section 2, if any such difference exists. Notwithstanding any general or special law to the contrary, if the appraised value of the parcels described in section 2 is determined to be greater than the appraised values of the parcels described in section 1, the commonwealth need not pay the difference as additional consideration to the city of Revere.

The inspector general shall review and approve all appraisals. The inspector general shall prepare a report of his review of the methodology used for these appraisals and shall file the report with the commissioner for submission to the house and senate committees on ways and means and the chairmen of the joint committee on bonding, capital expenditure and state assets. The commissioner shall, 30 days before the execution of any release deed or agreement authorized by this act, or any subsequent amendment thereof, submit the release deed or 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 after receipt of any release deed or agreement or amendment. The commissioner shall submit the agreement and any 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 bonding, capital expenditures and state assets at least 15 days before execution.

SECTION 4. The city of Revere shall pay for the costs of all appraisals, surveys and deed preparation for the conveyance of the property authorized by this act as considered necessary by the commissioner of capital asset management and maintenance.

SECTION 5. No deed conveying the parcel of land from the commonwealth to the proponents named in this act shall be valid unless the deed contains a provision restricting the use of the parcel to the construction of a public safety facility.

SECTION 6. The city of Revere may construct on this parcel, and on the adjacent

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parcel transferred to the city pursuant to chapter 351 of the acts of 1996, a public safety facility of no more than 3 ½ stories with a height no greater than 54 feet above the centerline of the Revere Beach Parkway.

Approved November 22, 2005.

Chapter 155. AN ACT AUTHORIZING THE TOWN OF MIDDLEBOROUGH 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:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Middleborough may grant a license for the sale of all alcoholic beverages not to be drunk on the premises to Elizabeth McDermott, d/b/a Not the Same Old Country Store in the town of Middleborough under section 15 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 person, organization, corporation or location.

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

Approved November 22, 2005.

Chapter 156. AN ACT PROVIDING FOR THE DISPOSITION OF CERTAIN PROPERTY IN THE TOWN OF UPTON.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation, shall, notwithstanding sections 40H and 40I of chapter 7 of the General Laws, convey by deed 2 parcels of land off of Maple Avenue in the town of Upton, presently under the care, custody and control of the department, to the Upton Development Group, Ltd., acting by and through Upton Fuels and Construction, Inc., in this act collectively called the recipient. The parcels are shown on a plan of land entitled "Plan of Land in Upton, Ma, owners Upton Fuels and Construction", dated December 29, 2003, prepared by Blackstone Valley Survey and Engineering Inc. The exact boundaries of the parcels shall be determined by the commissioner in consultation with the department after completion of a survey, if required.

SECTION 2. In consideration of the conveyance provided for in section 1, the division of capital asset management and maintenance shall receive from the recipient, conveyance of 3 parcels of land to be placed under the care, custody and control of the department of conservation and recreation, to be used for conservation purposes. The parcels are shown on plans of land recorded in Plan Books at the Worcester registry of deeds with reference as follows:

Book 755, Plan 26; Book 705, Plan 14; Book 505, Plan 107; Book 720, Plan 109; Book 334, Plan 117; and Book 817, Plan 34.

SECTION 3. In further consideration of the conveyance provided for in section 1, the recipient shall donate \$25,000 to the department of conservation and recreation, as compensation and restitution for the trespass, encroachment and contamination related to the past disposal of solid and hazardous waste materials on the state parcels.

The compensation and restitution shall be paid no later than 1 year after the date of the issuance of the first building permit for construction at the subject site and shall be deposited in the Conservation Trust, established pursuant to chapter 132A, section 1 of the General Laws. The conveyance and payment of additional compensation shall satisfy the obligations of the Upton Fuels and Construction, Inc., and their stockholders to the commonwealth for the past activities identified above.

SECTION 4. The commonwealth shall also receive, as additional consideration, payment for the differences between the full and fair market value of the parcels conveyed in section 1 and the full and fair market value of the parcels described in section 2. There shall be an independent appraisal, or appraisals, of the parcels described in section 1 and section 2 to be conveyed by this act to determine their market values, or the values in use as proposed, based upon one or more professional appraisals as commissioned by the commissioner of the division of capital asset management and maintenance. If the parcels described in section 2 are determined to be of greater value than the parcels to be conveyed by the commonwealth, the commonwealth shall not be obliged to pay such difference. The full and fair market value of all parcels shall be as determined by an independent appraisal, prepared in accordance with the usual and customary professional appraisal practices, by a qualified appraiser commissioned and instructed by the commissioner to appraise the state parcels described in section 1 as if free of contamination and without the benefit of any permits, approvals or authorizations obtained by the recipient.

The commissioner shall submit the appraisal or appraisals to the inspector general for review and comment. The inspector general shall review and approve the appraisal or appraisals. The review shall include an examination of the methodology used for the appraisal or appraisals. The inspector general shall prepare a report and file it with the commissioner for submission by the commissioner to the house and senate committees on ways and means and the chairmen of the joint committee on bonding, capital expenditures and state assets. The commissioner shall submit copies of the appraisal and the inspector general's review, approval and comments, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on bonding, capital expenditures and

state assets at least 15 days before the execution of the conveyance.

SECTION 5. The recipient shall be responsible for all costs associated with any appraisal, deed and plan preparation or other expenses incurred by the commonwealth related to the conveyances authorized by sections 1 and 2 which the division of conservation and recreation considers necessary and appropriate.

SECTION 6. The conveyance authorized by this act shall in no way interfere with the rights of the commonwealth to enter upon, use, repair, maintain or care for state owned lands under the care and control of department of conservation and recreation, or any other state agency, nor shall the commonwealth or its officers, agents or staff, in any event, be held liable or responsible for any damage or inconvenience caused thereby.

SECTION 7. Notwithstanding any general or special law to the contrary, the recipient shall agree to hold the commonwealth, its agents and staff harmless and indemnified against all claims and demands for injuries or damages to persons or property arising out of the conveyances authorized by this act.

SECTION 8. At the option of the department of conservation and recreation, in consultation with the commissioner, any additional consideration to be paid by the recipient may be provided by in-kind contribution as may be set forth in a license or management use agreement between the recipient and the department. Any monetary consideration paid to the commonwealth for the conveyances authorized by this act, other than the \$25,000 to the department for deposit in the Conservation Trust, shall be deposited into the General Fund.

Approved November 22, 2005.

Chapter 157. AN ACT RELATIVE TO DISABILITY RETIREMENT BENEFITS FOR VETERANS.

Be it enacted, etc., as follows:

SECTION 1. Subdivision (2) of section 7 of chapter 32 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

(e) Any member of Group 1 or Group 2 or Group 4, who is a veteran as defined in section 1, shall receive an additional yearly retirement allowance of \$15 for each year of creditable service or fraction thereof, but the total amount of this additional yearly retirement allowance shall not exceed \$300. This paragraph shall only take effect upon its acceptance by the majority vote of the board of a system, subject to the approval of the legislative body. For purposes of this paragraph, legislative body shall mean in the case of a city the city council in accordance with its charter, in the case of a town the town meeting, in the case of a county the county retirement board advisory council, in the case of a district the district members, in the case of an authority the governing body and in the case of a regional retirement system, the regional retirement board advisory council.

SECTION 2. An additional yearly retirement allowance which would have been payable under section 1 of this act, if that provision had been in effect and for which a member in service would have been eligible at the time of the member's retirement, shall be paid retroactively to the date of each such veteran's retirement. A veteran shall be eligible for payment of a retroactive additional yearly retirement allowance under this section only upon filing an application no later than 120 days after the effective date of this act, in a form that the appropriate retirement board, as defined in chapter 32 of the General Laws, shall prescribe. Payment under this section shall be made in a lump sum or in installments and shall be made in full within 1 year of the receipt of a completed and satisfactory application by the board. No payment shall be made under this act with respect to a person who is deceased. The appropriate retirement board shall provide reasonable notice to eligible retirees about the application process prescribed by this section. This section shall only take effect upon its acceptance by the majority vote of the board of a system, subject to the approval of the legislative body. For purposes of this paragraph, legislative body shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county, the county retirement board advisory council, in the case of a district, the district members, in the case of an authority, the governing body and in the case of a regional retirement system, the regional retirement board advisory council.
Emergency Letter: November 23, 2005 @ 12:05 P.M. Approved November 22, 2005.

Chapter 158. AN ACT PROVIDING INCENTIVES TO THE MOTION PICTURE INDUSTRY.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following subsection:-

(1)(1) As used in this subsection the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Motion picture", a feature-length film, video, television series defined as a season not to exceed 27 episodes, or a commercial made in the commonwealth, in whole or in part, for theatrical or television viewing or as a television pilot. The term "motion picture" shall not include a production featuring news, current events, weather and financial market reports, talk show, game show, sporting events, awards show or other gala event, a production whose sole purpose is fundraising, a long-form production that primarily markets a product or service, a production containing obscene material or performances.

"Motion picture production company", a company including any subsidiaries engaged in the business of producing motion pictures, videos, television series, or commercials intended for a theatrical release or for television viewing. The term "motion picture production company" shall not mean or include any company which is more than 25 per cent

owned, affiliated, or controlled, by any company or person which is in default on a loan made by the commonwealth or a loan guaranteed by the commonwealth.

"Massachusetts production expense", a production expense for the motion picture clearly and demonstrably incurred in the commonwealth.

"Principal photography", the phase of production during which the motion picture is actually filmed. The term shall not include preproduction or postproduction.

"Production expense" or "production cost", preproduction, production and postproduction expenditures directly incurred in the production of a motion picture. Said term includes wages and salaries paid to individuals employed in the production of the motion picture; the costs of set construction and operation, editing and related services, photography, sound synchronization, lighting, wardrobe, make-up and accessories; film processing, transfer, sound mixing, special and visual effects; music; location fees and the cost of purchase or rental of facilities and equipment or any other production expense as may be determined by the department of revenue to be an eligible production expense. The term shall not include costs incurred in marketing or advertising a motion picture, any costs related to the transfer of tax credits or any amounts paid to persons or businesses as a result of their participation in profits from the exploitation of the production.

"Secretary", the secretary of economic development.

(2) A taxpayer engaged in the making of a motion picture shall be allowed a credit against the taxes imposed by this chapter for the employment of persons within the commonwealth in connection with the filming or production of 1 or more motion pictures in the commonwealth within any consecutive 12 month period. The credit shall be equal to 20 per cent of the total aggregate payroll paid by a motion picture production company that constitutes Massachusetts source income, when total production costs incurred in the commonwealth equal or exceed \$250,000 during the taxable year. For purposes of this subsection, the term "total aggregate payroll" shall not include the salary of any employee whose salary is equal to or greater than \$1,000,000.

(3) A taxpayer shall be allowed an additional credit against the taxes imposed by this chapter equal to 25 per cent of all Massachusetts production expenses, not including the payroll expenses used to claim a credit pursuant to paragraph (2), where the motion picture is also eligible for a credit pursuant to paragraph (2) and either Massachusetts production expenses exceed 50 per cent of the total production expenses for a motion picture or at least 50 per cent of the total principal photography days of the film take place in the commonwealth.

(4) The tax credit shall be taken against the taxes imposed under this chapter and shall not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 5 subsequent taxable years.

(5)(i) All or any portion of tax credits issued in accordance with this subsection may be transferred, sold or assigned to other film taxpayers with tax liabilities under this chapter or chapter 63. Any tax credit that is transferred, sold or assigned and taken against taxes imposed by this chapter or said chapter 63 shall not be refundable. Any amount of the tax

credit that exceeds the tax due for a taxable year may be carried forward by the transferee, buyer or assignee to any of the 5 subsequent taxable years from which a certificate is initially issued by the department of revenue.

(ii) An owner or transferee desiring to make a transfer, sale or assignment shall submit to the commissioner a statement which describes the amount of tax credit for which the transfer, sale or assignment of tax credit is eligible. The owner or transferee shall provide to the commissioner information as the commissioner may require for the proper allocation of the credit. The commissioner shall provide to the taxpayer a certificate of eligibility to transfer, sell or assign the tax credits. The commissioner shall not issue a certificate to a taxpayer that has an outstanding tax obligation with the commonwealth in connection with any motion picture for any prior taxable year. A tax credit shall not be transferred, sold or assigned without a certificate.

(6) The total amount of tax credits provided under this subsection in connection with any one motion picture production shall not exceed \$7,000,000.

(7) The commissioner, in consultation with the secretary, shall promulgate regulations necessary for the administration of this subsection.

SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after section 38S the following section:-

Section 38T. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Commissioner", the commissioner of revenue.

"Motion picture", a feature-length film, a video, a television series defined as a season not to exceed 27 episodes, or a commercial made in the commonwealth, in whole or in part, for theatrical or television viewing or as a television pilot. The term "motion picture" shall not include a production featuring news, current events, weather and financial market reports, talk show, game show, sporting events, awards show or other gala event, a production whose sole purpose is fundraising, a long-form production that primarily markets a product or service, a production containing obscene material or performances.

"Motion picture production company", a company including its subsidiaries engaged in the business of producing motion pictures, videos, television series, or commercials intended for a theatrical release or for television viewing. The term "motion picture production company" shall not mean or include any company which is more than 25 per cent owned, affiliated, or controlled, by any company or person which is in default on a loan made by the commonwealth or a loan guaranteed by the commonwealth.

"Massachusetts production expense", a production expense for the motion picture clearly and demonstrably incurred in the commonwealth.

"Principal photography", the phase of production during which the motion picture is actually filmed. The term shall not include preproduction or postproduction.

"Production expense" or "production cost", preproduction, production and postproduction expenditures directly incurred in the production of a motion picture. The term shall include wages and salaries paid to individuals employed in the production of the

motion picture; the costs of set construction and operation, editing and related services, photography, sound synchronization, lighting, wardrobe, make-up and accessories; film processing, transfer, sound mixing, special and visual effects; music; location fees and the cost of purchase or rental of facilities and equipment or any other production expense as may be determined by the department of revenue to be an eligible production expense. The term shall not include costs incurred in marketing or advertising a motion picture, any costs related to the transfer of tax credits or any amounts paid to persons or businesses as a result of their participation in profits from the exploitation of the production.

"Secretary", the secretary of economic development.

(b) A taxpayer engaged in the making of a motion picture shall be allowed a credit against the taxes imposed by this chapter for the employment of persons within the commonwealth in connection with the filming or production of 1 or more motion pictures in the commonwealth within any consecutive 12 month period. The credit shall be equal to 20 per cent of the total aggregate payroll paid by a motion picture production company that constitutes Massachusetts source income, when total production costs incurred in the commonwealth equal or exceed \$250,000 during the taxable year. For purposes of this subsection, the term "total aggregate payroll" shall not include the salary of any employee whose salary is equal to or greater than \$1,000,000.

(c) A taxpayer shall be allowed an additional credit against the taxes imposed by this chapter equal to 25 per cent of all Massachusetts production expenses, not including the payroll expenses used to claim a credit pursuant to subsection (b), where the motion picture is also eligible for a credit pursuant to subsection (b) and either Massachusetts production expenses exceed 50 per cent of the total production expenses for a motion picture or at least 50 per cent of the total principal photography days of the film take place in the commonwealth.

(d) The tax credit shall be taken against the taxes imposed under this chapter and shall not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 5 subsequent taxable years.

(e)(1) All or any portion of tax credits issued in accordance with the provisions of this section may be transferred, sold or assigned to other taxpayers with tax liabilities under this chapter or chapter 62. Any tax credit that is transferred, sold or assigned and taken against taxes imposed by this chapter or said chapter 62 shall not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the transferee, buyer or assignee to any of the 5 subsequent taxable years from which a certificate is initially issued by the department of revenue.

(2) An owner, transferee or assignee desiring to make a transfer, sale or assignment shall submit to the commissioner a statement which describes the amount of tax credit for which the transfer, sale or assignment of tax credit is eligible. The owner, transferee or assignee shall provide to the commissioner such information as the commissioner may require for the proper allocation of the credit. The commissioner shall provide to the taxpayer a certificate of eligibility to transfer, sell or assign the tax credits. The commissioner shall not

issue a certificate to a taxpayer that has an outstanding tax obligation with the commonwealth in connection with any motion picture for any prior taxable year. A tax credit shall not be transferred, sold or assigned without a certificate.

(f) The total amount of tax credits provided under this subsection in connection with any one motion picture production shall not exceed \$7,000,000.

(g) The commissioner, in consultation with the secretary, shall promulgate regulations necessary for the administration of this subsection.

SECTION 3. Section 1 of chapter 64H of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the definition of "Mobile telecommunications service" the following 2 definitions:-

"Motion picture", a feature-length film, a video, a television series defined as a season not to exceed 27 episodes, or a commercial made in the commonwealth, in whole or in part, for theatrical or television viewing or as a television pilot. The term "motion picture" shall not include a production featuring news, current events, weather and financial market reports, talk show, game show, sporting events, awards show or other gala event, a production whose sole purpose is fundraising, a long-form production that primarily markets a product or service, or a production containing obscene material or performances.

"Motion picture production company", a company including any subsidiaries engaged in the business of producing motion pictures, videos, television series, or commercials intended for a theatrical release or for television viewing. The term "motion picture production company" shall not mean or include any company which is more than 25 per cent owned, affiliated, or controlled, by any company or person which is in default on a loan made by the commonwealth or a loan guaranteed by the commonwealth.

SECTION 4. Section 6 of said chapter 64H, as so appearing, is hereby amended by adding the following paragraph:-

(ww) Sales of tangible personal property to a qualifying motion picture production company or to an accredited film school student for the production expenses related to a school film project.

For the purposes of this paragraph a qualifying motion picture production company must expend in the aggregate not less than \$250,000 within the commonwealth in connection with the filming or production of one or more motion pictures in the commonwealth within any consecutive 12 month period and have the approval of the secretary of economic development and the commissioner.

Any motion picture production company that intends to film all, or parts of, a motion picture or television program in the commonwealth and qualify for the exemption provided by this paragraph shall provide an estimate of total expenditures to be made in the commonwealth in connection with the filming or production of such motion picture or television program and shall designate a member or representative of the motion picture production company as a primary liaison with the commissioner for the purpose of facilitating the proper reporting of expenditures and other information as required by the commissioner. Said estimate of expenditures shall be filed prior to the commencement of filming in the common-

wealth. Any qualifying motion picture production company that has been approved which fails to expend \$250,000 within a consecutive 12 month period shall be liable for the sales taxes that would have been paid had the approval not been granted. The sales taxes shall be considered due as of the date that taxable expenditures were made.

The commissioner shall promulgate rules for the implementation of this paragraph.

SECTION 5. Notwithstanding any general or special law to the contrary, upon application by a motion picture production company, the secretary of economic development shall make a determination regarding the inclusion of the name "Commonwealth of Massachusetts" in the credits of any motion picture filmed or produced in the commonwealth.

SECTION 6. Notwithstanding any general or special law to the contrary, except for extraordinary activities, a department or agency of the commonwealth shall not charge a fee or other cost, except the actual costs incurred by the affected department or agency, for the use of state-owned property for the purposes of making motion pictures. For the purposes of this section, the term "extraordinary" shall mean an activity outside the normal course of business of an agency or department of the commonwealth, including, but not limited to, demolition or construction projects, or any combination thereof.

SECTION 7. Notwithstanding any general or special law to the contrary, the secretary of economic development shall conduct an economic impact study of motion picture production and development in the commonwealth and shall issue a report together with any recommendations no later than December 31, 2011; provided, however, that the secretary shall file annually by December 31 an economic report of all motion picture production activity in the commonwealth that receives a tax credit certificate pursuant to this act. The secretary shall file annually said report by December 31, with the clerk of the senate and house of representatives, the house and senate committees on ways and means and with the joint committee on economic development and emerging technologies.

SECTION 8. The department of revenue shall, issue a report detailing the amount of tax credit certificates issued to taxpayers pursuant to this act, the cost to the commonwealth of the tax credits, and the number of jobs created in Massachusetts as a result of this act and shall file the report by December 31, 2011 with the clerk of the senate and the house of representatives, the house and senate committees on ways and means, the joint committee on revenue and the joint committee on economic development and emerging technologies. The department shall create the forms necessary to comply with the reporting requirements of this section.

SECTION 9. This act shall be effective for tax years beginning on or after January 1, 2006 and before January 1, 2013, but credits allowed pursuant to this act may be carried forward pursuant to sections 1 and 2 after January 1, 2013.

Approved November 23, 2005.

Chapter 159. AN ACT ESTABLISHING A PROJECT MITIGATION CONTRIBUTION OR LINKAGE PROGRAM FOR AFFORDABLE HOUSING IN THE CITY OF SOMERVILLE.

Be it enacted, etc., as follows:

SECTION 1. The general court finds that:

(a) the city of Somerville is undergoing a period of substantial growth in real estate development, and this growth is attracting an increasing number of workers and residents to a city that is already 1 of the most densely populated urban areas in the United States;

(b) this growth is further increasing the demand for affordable housing for low and moderate income households, which has been recognized by the city as an urgent need since 1989;

(c) before the effective date of this act, developers, owners, and financiers have invested substantial time and funds and have relied reasonably and in good faith on the applicability to their developments of article 15 of the Somerville zoning ordinance, including the issuance of special permits and special permits with site plan review granted in connection with those developments, and there is a need to provide certainty that these special permits and special permits with site plan review are valid;

(d) project mitigation contributions made by these developers before the effective date of this act have provided revenues for affordable housing for low and moderate income households in Somerville, and there is a need to ensure that these revenues are secure and available for the provision of affordable housing; and

(e) the purpose of this act is (1) to ensure that developers shall contribute a fair share to the direct and indirect impacts of future development on the city of Somerville's supply of affordable housing for low and moderate income households; and (2) to validate actions taken under article 15 of the Somerville zoning ordinance before the effective date of this act.

SECTION 2. (a) The city of Somerville may, by ordinance, require the payment of an affordable housing linkage fee for any project, including a planned unit development project, that (1) requires zoning relief, including without limitation, a special permit, special permit with site plan review, or site plan approval; and (2) contains a single use or combination of uses exceeding a square foot threshold to be determined from time to time by the board of aldermen. The ordinance shall specify the dollar amount of the linkage fee, the method by which it shall be increased from time to time and the types of uses to which it shall apply.

(b) The city may create a distinct and separate revolving fund account into which affordable housing linkage fees shall be paid, and no such fee shall be paid to the city's general treasury or used as general revenues under section 53 of chapter 44 of the General Laws. The funds in this revolving fund account shall be administered by the trustees of a municipal affordable housing trust fund established by the board of aldermen for the purposes set forth in this act.

(c) All linkage fees previously imposed and collected under article 15 of the Somerville zoning ordinance and the prior approval, grant, or enactment of all zoning ordinance

amendments, zoning map amendments, special permits, and special permits with site plan review in connection with article 15 of the Somerville zoning ordinance are acts of independent legal significance governed by the zoning ordinance; and all such fees and zoning ordinance amendments, zoning map amendments, special permits, and special permits with site plan review approved, granted, or enacted before the passage of this act are hereby ratified, validated and confirmed to the extent that they were previously subject to challenge on the grounds that article 15 of the Somerville zoning ordinance was not authorized under the laws of the commonwealth.

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

The foregoing was laid before the Governor on the Twenty-third day of November, 2005 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 160. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE TOWN OF WEST SPRINGFIELD.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance may, notwithstanding sections 40F, 40F ½ and 40H of chapter 7 of the General Laws or any other general or special law or rule or regulation to the contrary, convey a certain parcel of land and all rights, title, interest, control and maintenance in and to this property, to the town of West Springfield, to be used to enhance, connect and expand the access to and protection of the watershed area of the town. The parcel is shown on a plan of land entitled, "Description of Prospect Street for Discontinuance" proposed by the town of West Springfield engineering department, dated February 1974. The metes and bounds of said property are as follows:-

Beginning at a pipe, being the intersection of the southerly sideline of Prospect Avenue and the westerly sideline of Morgan Road, thence running S 46 degrees-55'-40" W for a distance of 229.41 feet to a pipe thence turning and running S 43 degrees-08'-25" W for a distance of 508.68 feet to a pipe thence turning and running S 46 degrees-30'-10" W for a distance of 772.08 feet to a pipe, thence turning and running S 31 degrees-13'-40" W a distance of 300.63 feet to a concrete stone bound, thence turning and running S 53 degrees-35'-10" W for a distance of 359.56 feet to a pipe, thence turning and running S 58 degrees-54'-40" W for a distance of 408.80 feet to a pipe, thence turning and running S 83 degrees-12'-55" W for a distance of 394.69 feet to a pipe, thence turning and running S 51 degrees-24'-40" W a distance of 306.78 feet to a pipe, thence turning and running S-60 degrees-41'-40" W a distance of 391.04 feet to a pipe, thence turning and running S 70 degrees

-09'-55" W a distance 277.16 feet to a pipe, thence turning and running S 63 degrees-47'-10" W a distance of 400.00 feet to a pipe, thence turning and running S 59 degree-40'-35" W a distance of 659.81 feet to a concrete stone bound, thence turning and running S-63 degrees-00'-45" W a distance of 271.17 feet to a pipe, thence turning and running S 49 degrees-13'-05" W a distance of 284.15 feet to a point, thence turning and running S-44 degrees-36'-10" W a distance of 354.75 feet to a pipe, thence turning and running S 85 degrees-50'-40" W a distance of 35.45 feet to a pipe at the intersection of the southerly sideline of Prospect Avenue and the West Springfield - Westfield Town Line, thence turning and running N 04 degrees-58'-40" E along said Town Line a distance of 66.85 feet to a pipe at the intersection of the northerly sideline of Prospect Avenue and the West Springfield-Westfield Town Line thence turning and running along the northerly sideline of Prospect Avenue N 44 degrees-36'-10" E a distance of 332.57 feet to a pipe, thence turning and running N 49 degrees-13'-05" E a distance of 283.49 feet to a pipe, thence turning and running N 43 degrees-27'-35" E a distance of 517.62 feet to a pipe, thence turning and running S 57 degrees-26'-35" E a distance of 147.24 feet to a pipe, thence turning and running N 63 degrees-47'-10" E a distance of 791.03 feet to a pipe, thence turning and running N 70 degrees-09'-55" E a distance of 275.38 feet to a point, thence turning and running N 60 degrees-41'-40" E a distance of 380.22 feet to a pipe, thence turning and running N 51 degrees-24'-40" E a distance of 320.22 feet to a pipe, thence turning and running N 83 degrees-12'-55" E a distance of 399.28 feet to a pipe, thence turning and running N 58 degrees-54'-40" E a distance of 391.52 feet to a pipe, thence turning and running N 53 degrees-35'-10" E a distance of 343.46 feet to a pipe, thence turning and running N 31 degrees-13'-40" E a distance of 296.44 feet to a pipe, thence turning and running N 46 degrees-30'-10" E a distance of 779.00 feet to a pipe, thence turning and running N 43 degrees-08'-25" E a distance of 508.92 feet to a pipe, thence turning and running N-46 degrees-55'-40" E a distance of 231.59 feet to a point, thence turning and running S 43 degrees-02'-08" E a distance of 66.00 feet to a pipe at the point of beginning. The exact boundaries of the parcel shall be determined by the commissioner after completion of a survey.

SECTION 2. The commissioner shall, 30 days before the execution of any discontinuance of public way and release deed or agreement authorized by this act, or any subsequent amendment, submit the discontinuance of public way and release deed or 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 discontinuance of public way and release deed or agreement or amendment. The commissioner shall submit the discontinuance of public way and release deed or agreement and any subsequent amendments, the reports, and the review and 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 bonding, capital expenditures and state assets at least 15 days before execution.

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SECTION 3. The town of West Springfield shall pay for any costs of the appraisal, survey and deed preparation necessary for the conveyance of the property authorized by this act. The town of West Springfield shall acquire the property in its present condition without warranty.

Approved December 8, 2005.

Chapter 161. AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO ESTABLISH AN OTHER POSTEMPLOYMENT BENEFITS TRUST FUND.

Be it enacted, etc., as follows:

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

"GASB 43 and 45", Statements 43 and 45 of the Governmental Accounting Standards Board as amended from time to time and their successors.

"Other Postemployment Benefits", (OPEB)-Postemployment benefits other than pensions as that term is defined in GASB 43 and 45 including postemployment healthcare benefits, regardless of the type of plan that provides them, and all postemployment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

SECTION 2. (a) There shall be in the town of Arlington an OPEB Trust Fund, which shall be under the supervision and management of the town's contributory retirement board established under paragraph (b) of subdivision (4) of section 20 of chapter 32 of the General Laws. The town treasurer shall be the custodian of the OPEB Trust Fund and may employ an outside custodial service.

(b) Beginning in fiscal year 2008, the OPEB Trust Fund shall be credited with all amounts appropriated or otherwise made available by the town for the purposes of meeting the current and future OPEB costs payable by the town. The OPEB Trust Fund shall be credited with all amounts contributed or otherwise made available by employees of the town for the purpose of meeting future OPEB costs payable by the town. Amounts in the OPEB Trust Fund, including any earnings or interest accruing from the investment of these amounts, shall be expended only for the payment of the costs payable by the town for OPEB in consultation with the town's contributory retirement board. Subject in each instance to the approval of the town's contributory retirement board, the town treasurer shall invest and reinvest the amounts in the OPEB Trust Fund not needed for current disbursement consistent with the prudent person rule, but no funds may be invested directly in mortgages or in collateral loans. The OPEB Trust Fund shall be subject to the public employee retirement administration commission's triennial audit.

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(c) The board may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the OPEB Trust Fund and may pay from the OPEB Trust Fund for this advice and other services determined by the town's contributory retirement board. Procurement for these services shall be subject to the procurement procedures and rules followed by the town's contributory retirement board for services to the town's contributory retirement system.

(d) If any civil action is brought against a member of the retirement board, the defense or settlement of which action is made by an attorney employed by the retirement board, the member shall be indemnified for all expenses incurred in the defense of this action and shall be indemnified for damages to the same extent as provided for public employees in chapter 258 of the General Laws if the claim arose out of acts performed by the member or members while acting within the scope of his official duties, but no member of a retirement board shall be indemnified for expenses incurred in the defense of an action, or damages awarded in an action, in which there is shown to be a breach of fiduciary duty, an act of willful dishonesty or an intentional violation of law by the member.

SECTION 3. (a) An actuary, who shall be a member of the American Academy of Actuaries, shall perform an actuarial valuation of the town's OPEB liabilities and funding schedule, as of January 1, 2005, and no less frequently than every second year thereafter. All these determinations shall be made in accordance with generally accepted actuarial standards and shall conform to the requirements of GASB 43 and 45 and the actuary shall make a report of such determinations to the town meeting. The report shall, without limitation, detail the demographic and economic actuarial assumptions used in making these determinations, and each such report after the first report shall also include an explanation of the changes, if any, in the demographic and economic actuarial assumptions employed and the reasons for any changes.

(b) Beginning in fiscal year 2008, all payments for the purposes of meeting the town's costs of OPEB under this act shall be made from the OPEB Trust Fund. Funds in the OPEB Trust Fund must be segregated from all other funds. Disbursements from the OPEB Trust Fund including any earnings or interest accruing from the investment of these amounts may only be made based on sections 1 to 3, inclusive, of this act.

SECTION 4. Monies from the Retiree Insurance Liability Fund established by chapter 12 of the acts of 1998 shall be transferred on July 1, 2007 to the OPEB Trust Fund.

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

Approved December 8, 2005.

Chapter 162. AN ACT RELATIVE TO DENTAL AND VISION CARE SERVICES.

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

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is to provide dental and vision care services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 176M of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "dental", in line 181, the following words:- or vision.

SECTION 2. Section 1 of chapter 176N of the General Laws, as so appearing, is hereby amended by inserting after the word "credit", in line 21, the following words:- , vision.

SECTION 3. The definition of "Carrier" in section 1 of chapter 176 O of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Unless otherwise noted, the term "carrier" shall not include any entity to the extent it offers a policy, certificate or contract that provides coverage solely for dental care services or visions care services.

SECTION 4. Said section 1 of said chapter 176 O, as so appearing, is hereby further amended by inserting after the definition of "Covered benefits" the following definition:

"Dental carrier", an entity that offers a policy, certificate or contract that provides coverage solely for dental care services.

SECTION 5. Said section 1 of said chapter 176 O, as so appearing, is hereby further amended by adding the following definition:-

"Vision carrier", an entity that offers a policy, certificate or contract that provides coverage solely for vision care services.

SECTION 6. Said chapter 176O is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. A carrier, including a dental or vision carrier, shall not refuse to contract with or compensate for covered services an otherwise eligible health, dental or vision care provider solely because such provider has in good faith communicated with or advocated on behalf of one or more of his prospective, current or former patients regarding the provisions, terms or requirements of the carrier's health, dental or vision benefit plans as they relate to the needs of such provider's patients, or communicated with 1 or more of his prospective, current or former patients with respect to the method by which such provider is compensated by the carrier for services provided to the patient. Nothing in this section shall preclude a carrier, including a dental or vision carrier, from requiring a health, dental or vision care provider to hold confidential specific compensation terms.

SECTION 7. Said chapter 176O is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. No contract between a carrier, including a dental or vision carrier, and a health, dental or vision care provider for the provision of services to insureds may require

the provider to indemnify the carrier for any expenses and liabilities, including, without limitation, judgments, settlements, attorneys' fees, court costs and any associated charges, incurred in connection with any claim or action brought against the carrier based on the carrier's management decisions, utilization review provisions or other policies, guidelines or actions.

SECTION 8. Section 6 of said chapter 176O, as so appearing, is hereby amended by adding the following subsection:-

(b) A dental or vision carrier shall issue and deliver to at least 1 adult insured in each household residing in the commonwealth, upon enrollment, an evidence of coverage and any amendments thereto, a summary of the information contained in the evidence of coverage or refer the insured to resources where the information can be accessed, including, but not limited to, an internet website. If the dental or vision carrier chooses to deliver an evidence of coverage, it shall contain a clear, concise and complete statement of:-

(1) the dental or vision care services and any other benefits which the insured is entitled to on a nondiscriminatory basis;

(2) the limitations on the scope of dental or vision care services and any other benefits to be provided, including an explanation of any deductible or copayment feature and all restrictions relating to preexisting condition exclusions;

(3) the locations where, and the manner in which, dental or health care services and other benefits may be obtained;

(4) the criteria by which an insured may be disenrolled or denied enrollment and the involuntary disenrollment rate among insureds of the carrier;

(5) a description of the carrier's method for resolving insured complaints;

(6) the requirement that an insured's coverage may be canceled, or its renewal refused, only in the following circumstances: (i) failure by the insured or other responsible party to make payments required under the contract; (ii) misrepresentation or fraud on the part of the insured; (iii) commission of acts of physical or verbal abuse by the insured which pose a threat to providers or other insureds of the carrier and which are unrelated to the physical or mental condition of the insured; provided, that the commissioner prescribes or approves the procedures for the implementation of the provisions of this clause; (iv) relocation of the insured outside the service area of the carrier; and (v) nonrenewal or cancellation of the group contract through which the insured receives coverage;

(7) a summary description of the procedure, if any, for out of network referrals and any additional charge for using out of network providers;

(8) a summary description of the utilization review procedures and quality assurance programs used by the carrier, including the toll-free telephone number to be established by the carrier that enables consumers to determine the status or outcome of utilization review decisions;

(9) a statement detailing what translator and interpretation services are available to assist insureds. The commissioner shall determine in which languages other than English such statement shall be printed;

(10) such other information as the commissioner may by regulation require.

SECTION 9. Section 10 of said chapter 176 O, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) No contract between a carrier, including a dental or vision carrier, and a licensed health, dental or vision care provider group shall contain any incentive plan that includes a specific payment made to a health, dental or vision care professional as an inducement to reduce, delay or limit specific, necessary services covered by the health, dental or vision care contract. Health, dental or vision care professionals shall not profit from provision of covered services that are not necessary and appropriate. Carriers, including a dental or vision carrier, shall not profit from denial or withholding of covered services that are necessary and appropriate. Nothing in this section shall prohibit contracts that contain incentive plans that involve general payments such as capitation payments or shared risk agreements that are made with respect to health, dental or vision providers or which are made with respect to groups of insureds if such contracts, which impose risk on such health, dental or vision providers for the costs of care, services and equipment provided or authorized by another health, dental or vision care provider, comply with subsection (b).

(b) In order that patient care decisions are based on need and not on financial incentives, no carrier, including a dental or vision carrier, shall enter into a new contract, revise the risk arrangements in an existing contract or, after July 1, 2001, revise the fee schedule in an existing contract with a health, dental or vision care provider which imposes financial risk on such provider for the costs of care, services or equipment provided or authorized by another provider unless such contract includes specific provisions with respect to the following: (1) stop loss protection, (2) minimum patient population size for the provider group, and (3) identification of the health, dental or vision care services for which the provider is at risk.

SECTION 10. Section 15 of said chapter 176 O, as so appearing, is hereby amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(i) A carrier, including a dental or vision carrier, shall provide health, dental or vision care providers applying to be participating providers who are denied such status with a written reason or reasons for denial of such application.

SECTION 11. Said section 15 of said chapter 176 O, as so appearing, is hereby amended by striking out subsection (k) and inserting in place thereof the following subsection:-

(k) A carrier, including a dental or vision carrier, shall provide insureds, upon request, interpreter and translation services related to administrative procedures.

SECTION 12. This act shall take effect as of January 1, 2006.

Approved December 8, 2005.

Chapter 163. AN ACT RELATIVE TO TAX LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make certain changes in the tax laws and other laws relating to the department of revenue, therefore it is hereby declared to be emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 3A of chapter 14 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the second sentence, and inserting in place thereof the following sentence:- No such agreement shall be entered into unless proposals for the same have been invited in accordance with regulations governing the procurement by state agencies of contracts of similar value.

SECTION 2. Section 6 of said chapter 14, as so appearing, is hereby amended by adding the following paragraph:-

7. Shall establish written standards and procedures regarding the confidentiality and security of information disclosed by the commissioner to other agencies or entities, whether the disclosure is by means of an interdepartmental service agreement, contract or otherwise, and may suspend or decline to initiate the disclosure of the information if, in the commissioner's judgment, the agency or entity has not fully complied with all standards and procedures or is unable to so comply.

SECTION 3. Paragraph (c) of section 1 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the figure "1998" and inserting in place thereof the following figure:- 2005.

SECTION 4. Section 3 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the word "deduction", in line 116, the following words:- but, the deduction shall be limited in the manner provided in section 222(d)(3) of the Code as amended and in effect for the taxable year.

SECTION 5. Paragraph (a) of Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by adding the following subparagraph:-

(14) The amount as is described in section 1341(a)(2) of the Code, to the extent, if any, that that amount (i) was previously included in Massachusetts taxable income and (ii) is not otherwise deductible under section 2(d)(1) of this chapter.

SECTION 6. Section 5A of said chapter 62, as so appearing, is hereby amended by adding the following subsection:-

(d) For purposes of this section, the ownership of an interest in real property located in the commonwealth shall include, without limitation, the ownership of an interest in a partnership, to the extent that the partnership holds an interest in real property located in the commonwealth.

SECTION 7. Section 5 of chapter 62B of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following

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paragraph:-

Every employer who fails to withhold or pay to the commissioner any sums required by this chapter to be withheld or paid shall be personally and individually liable therefore to the commonwealth. The term "employer", as used in this paragraph and in section 11, includes an officer or employee of a corporation, or a member or employee of a partnership or limited liability company, who as such officer, employee or member is under a duty to withhold and pay over taxes in accordance with this section and section 2. Any sum withheld in accordance with section 2 shall be considered to be held in trust for the commonwealth.

SECTION 8. Section 12 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) Every financial institution, as defined in section 1 of chapter 63, shall, on or before the fifteenth day of the third month following the close of each taxable year, make a return to the commissioner giving such information as the commissioner considers necessary for the determination of the tax imposed by section 2 of chapter 63.

If any financial institution shall have participated in filing a consolidated return of income to the federal government, it shall file with the commissioner a statement of net income showing its gross income and deductions in accordance with the law and regulations governing the usual federal returns of corporations not so participating.

SECTION 9. Said chapter 62C is hereby amended by inserting after section 21 the following section:-

Section 21B. The unauthorized willful inspection of information contained in or set forth in a return or document filed with the commissioner, or of information which can identify a particular taxpayer that is received by the commissioner for the purposes of tax administration from the Internal Revenue Service or other taxing authority or derived from any other source, by (1) an employee of the commonwealth or a city or town therein, including the commissioner or a deputy, assistant, clerk, or assessor; (2) an employee of another state; (3) a person under contract with the commonwealth or an officer, director, or employee thereof; or (4) a person obtaining unauthorized access to a return, document, or information while the return, document, or information, including a return, document, or information stored in computer systems or computer files, is in the custody of the commissioner or of any other person or entity described in clauses (1) to (3), inclusive, is prohibited.

A violation of this subsection shall be punished by a fine of not more than \$1,000 per return, document, or taxpayer, as the court determines, with respect to which information was inspected, or by imprisonment for not more than 1 year, or both, and by disqualification from holding office in the commonwealth for a period, not exceeding 3 years, as the court determines.

The determination by the commissioner that an employee of the department of revenue, or the determination by another agency head that an employee of such other agency

has, in contravention of this subsection, willfully inspected information where the inspection was unauthorized and not protected by the good faith provision of this subsection, shall be grounds for dismissal of the employee.

A violation, as determined by the commissioner, of this subsection by any officer, director or employee of any person under contract with the commonwealth shall be grounds for prohibiting the officer, director or employee from working on the contract. A violation, as determined by the commissioner, of this subsection by a person under contract with the commonwealth, or an officer, director, or employee thereof, shall also be cause for terminating a current contract between the commonwealth and for prohibiting the contractor from entering into a future contract with the commonwealth.

SECTION 10. Section 30 of said chapter 62C of the General Laws, as so appearing, is hereby amended by striking out the first 2 paragraphs and inserting in place thereof the following 3 paragraphs:-

If the federal government finally determines that there is a difference from the amount previously reported in (1) the taxable income of a person subject to taxation under chapter 62, or (2) a federal credit to which such person may be entitled, but only if the calculation of such credit has an effect on the computation of the tax imposed under chapter 62, the final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section 32, to the commissioner within 1 year of receipt of notice of such final determination. If the federal government finally determines that there is a difference from the amount previously reported in (1) the taxable income of a person subject to taxation under chapter 63, or (2) a federal credit to which the person may be entitled, but only if the calculation of the credit has an effect on the computation of the tax imposed under chapter 63, the final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section 32, to the commissioner within 3 months of receipt of notice of the final determination. If the federal taxable estate of an estate subject to taxation under chapter 65C is finally determined by the federal government to be different from the taxable estate as previously reported, the final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section 32, to the commissioner within 2 months of receipt of notice of the final determination. The report shall include a statement of the reasons for the difference in a form as the commissioner may require. If from the report or upon investigation it shall appear that any tax under chapter 62, chapter 63 or chapter 65C has not been fully assessed, the commissioner shall, notwithstanding the 3 year limitation in section 26, assess an additional tax, if any, with respect thereto, with interest as provided in section 32. An assessment under this section shall be made in the manner provided in section 26 within 1 year of the receipt of the report or, where no report is filed with the commissioner, within 2 years of the receipt by the commissioner of information from the federal government that it has made a final determination of the person's federal taxable income or credits or of the federal taxable estate. A person or estate may include in the report of a change under this paragraph proposed offsets to the additional tax due based on issues unrelated to the change.

The offsets, if allowed, may reduce or eliminate the additional tax due, but in no case shall the offset give rise to a refund of tax that would otherwise be barred as untimely.

If, as a result of the change by the federal government in a person's federal taxable income, federal credits or federal taxable estate, the person or estate believes that a lesser tax was due the commonwealth than was assessed, the person or estate may apply in writing to the commissioner for an abatement thereof under section 37 within 1 year of the date of notice of the final determination by the federal government. The commissioner in his consideration of the application may offset against the proposed abatement additional tax due whether or not the additional tax is based on issues related to the change. Offsets based on issues unrelated to the change may reduce or eliminate the abatement, but in no case shall the offset give rise to a net amount of tax due based on an assessment that would otherwise be barred as untimely.

The commissioner shall make no assessment under this section, nor allow any abatement under this section unless the assessment or abatement, less any offset allowable against the assessment or abatement under this section, is directly attributable to changes, adjustments, or corrections to the taxpayer's federal taxable income or credits or federal estate resulting in a final determination.

SECTION 11. Said chapter 62C of the General Laws is hereby further amended by inserting after section 30 the following section:-

Section 30A. (a) If the tax due any other state, territory or possession of the United States, or the Dominion of Canada or any of its provinces, on account of any item of Massachusetts gross income of a Massachusetts resident, is finally determined by that jurisdiction to be less than the tax previously reported, and such tax was the basis for a credit claimed by the Massachusetts resident under subsection (a) of section 6 of chapter 62, the final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section 32, to the commissioner within 1 year of receipt of notice of the final determination. The report shall include a statement of the reasons for the difference in a form as the commissioner may require. If from the report or upon investigation it shall appear that any tax under chapter 62 has not been fully assessed, the commissioner shall, notwithstanding the limitation in section 26, assess an additional tax, if any, with respect thereto, with interest as provided in section 32. An assessment under this section shall be made in the manner provided in section 26 within 1 year of the receipt of the report or, where no report is filed with the commissioner, within 2 years of the receipt by the commissioner of information from the jurisdiction that it has made a final determination of the person's tax. A person may include in the report of a change under this paragraph proposed offsets to the additional tax due based on issues unrelated to the change. The offsets, if allowed, may reduce or eliminate the additional tax due, but in no case shall the offset give rise to a refund of tax that would otherwise be barred as untimely.

(b) If, as a result of a change by such a jurisdiction in a person's tax due that jurisdiction, the person believes that he is entitled to additional credit under subsection (a)

of section 6 of chapter 62 and that a lesser tax was due the commonwealth than was paid, the person may apply in writing to the commissioner for an abatement thereof under section 37 within 1 year of the date of notice of the final determination. The commissioner in his consideration of the application may offset against the proposed abatement additional tax due whether or not the additional tax is based on issues related to the change. Offsets based on issues unrelated to the change may reduce or eliminate the abatement, but in no case shall the offset give rise to a net amount of tax due based on an assessment that would otherwise be barred as untimely.

(c) Any person failing to comply with subsection (a) shall be assessed a penalty in the sum of \$100, or 10 per cent of the additional tax found due, whichever sum is smaller, the penalty to become part of the additional tax found due. For reasonable cause shown, the commissioner may, in his discretion, abate the penalty in whole or in part.

(d) For purposes of this section, the term "person" shall include an individual or a fiduciary subject to taxation under chapter 62.

(e) For purposes of this section, a final determination of a change may be initiated by the filing of an amended return by the taxpayer in the jurisdiction whose tax gives rise to the change.

(f) The commissioner of revenue may promulgate rules and regulations necessary to implement this section.

SECTION 12. Said chapter 62C is hereby further amended by inserting after section 35 thereof the following 4 sections:-

Section 35A. (a) If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 per cent of the portion of the underpayment to which this section applies. For purposes of this section, the term "underpayment" means the amount by which any tax exceeds the amount shown as the tax by the taxpayer on the return.

(b) This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following: (1) negligence or disregard of the tax laws of the commonwealth or of public written statements issued by the commissioner; (2) any substantial understatement of liability for a tax referred to in section 2.

(c) For purposes of this section, the term "negligence" includes any failure to make a reasonable attempt to comply with the laws or public written statements, the term "disregard" includes any careless, reckless, or intentional disregard, and there is a substantial understatement of liability for a tax for any tax period if the amount of the understatement for the period exceeds the greater of 10 per cent of the tax required to be shown on the return for the period or \$1,000.

(d) For purposes of subsection (c), the term "understatement" means the excess of the amount of the tax required to be shown on the return for the period over the amount of the tax which is shown on the return. The amount of the understatement shall be reduced by that portion of the understatement which is attributable to (i) the tax treatment of any item by the

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taxpayer if there is or was substantial authority for the treatment; or (ii) any item if the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or in a statement attached to the return, and there is a reasonable basis for the tax treatment of the item by the taxpayer, but this subparagraph (ii) shall not apply in the case of listed abusive transactions or strategies within the meaning of paragraph (b) of section 35B.

(e) The penalty set forth in this section shall apply only in cases where a return of tax is filed.

Section 35B. (a) A penalty shall not be imposed under section 35A with respect to any portion of an underpayment if it is shown that there was reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion. With respect to listed abusive transactions or strategies within the meaning of subsection (b), the commissioner may, by regulation, set forth circumstances under which the penalties otherwise may be waived in the interest of the efficient administration of the tax laws of the commonwealth.

(b) The commissioner may, from time to time, list by regulation items that he considers to be abusive transactions or tax strategies for purposes of section 35A and of this section.

Section 35C. (a) If (i) any part of any understatement of liability with respect to any return or claim for abatement or refund is due to a position for which there was not a realistic possibility of being sustained on its merits; (ii) any person who is a return preparer with respect to the return or claim knew or reasonably should have known of the position; and (iii) the position was not disclosed as provided in subsection (d) of section 35A or was frivolous; the person shall pay a penalty of \$1,000 with respect to the return or claim unless it is shown that there is reasonable cause for the understatement and the person acted in good faith. The penalty imposed under this paragraph may be assessed within 3 years after the return or claim was filed. Any claim for abatement of the penalty shall be filed within 3 years from the time the penalty was paid. The commissioner may waive or abate the penalty imposed under this subsection if the taxpayer demonstrates that its failure to comply was due to reasonable cause and not willful neglect.

(b) If any part of any understatement of liability with respect to any return or claim for refund is due to (i) a willful attempt in any manner to understate the liability for tax by a person who is a return preparer with respect to the return or claim, or (ii) a careless, reckless or intentional disregard by the person of the tax laws of the commonwealth or of public written statements issued by the commissioner; the person shall pay a penalty equal to the greater of \$1,000 or 10 per cent of the tax attributable to such part of the understatement; but, if both the penalty imposed under subsection (a) and the penalty imposed under this subsection are applicable to the same return or claim, the penalty imposed under this subsection shall be reduced by the amount of the penalty imposed under subsection (a). The penalty imposed under this subsection may be assessed against the preparer at any time. A claim for abatement of the penalty shall be filed within 2 years from the time the assessment was made.

(c) Except as otherwise provided in this section, the penalties imposed under this section shall be administered in accordance with the rules set forth in this chapter for the administration of taxes generally.

Section 35D. (a) A taxpayer subject to the tax imposed under chapter 62 or an excise imposed under chapter 63 that takes an inconsistent position in reporting its income subject to tax under said chapters shall disclose the inconsistency when it files its return.

(b) For purposes of this section, a taxpayer is considered to have taken an "inconsistent position" when (i) the governing law in another state in which the taxpayer files a return is the same in all material respects as the law in the commonwealth; and (ii) if the taxpayer had interpreted the law of the commonwealth as it interpreted the law of the other state in filing its return in such state, the taxable income attributed to the commonwealth would have been greater.

(c) Any taxpayer that fails to disclose an inconsistency as required under subsection (a) shall pay a penalty equal to the amount of tax attributable to the inconsistency, which penalty shall be in addition to all other penalties that may apply. The commissioner may waive or abate the penalty if the inconsistency or the failure to disclose was attributable to reasonable cause and not willful neglect.

SECTION 13. Section 31A of said chapter 62C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

If a person fails to pay to the commissioner any required tax of a corporation, partnership or limited liability company and the person is personally and individually liable therefore to the commonwealth under section 5 of chapter 62B, section 7B of chapter 64G, section 16 of chapter 64H or section 17 of chapter 64I, the commissioner shall notify the person in writing at any time during the period of time that the assessment against the corporation, partnership or limited liability company remains in existence and unpaid. The person or his representative may confer with the commissioner or his duly authorized representative as to the assessment of the tax or the proposed determination that he is personally and individually liable therefore within 30 days after the date of such notification. After the expiration of 30 days from the date of the notification, the person shall be personally and individually liable for the tax of the corporation, partnership or limited liability company, which shall be considered to be assessed against the person, and a lien under section 50 upon all property and rights of property, whether real or personal, belonging to the person shall arise in favor of the commonwealth.

SECTION 14. Said chapter 62C is hereby further amended by inserting after section 35D, inserted by section 12 of this act, the following section:-

Section 35E. (a) If a person (i) organizes or assists in the organization of a plan or arrangement or the sale of a plan or arrangement, and (ii) makes or furnishes, or causes another person to make or furnish, a statement with respect to the allowability of a deduction or credit, the excludability of income, or the securing of any other tax benefit, including but not limited to the avoidance of a filing requirement with respect to a tax return that would otherwise be required to be filed under this chapter, which the person knows or has reason

to know is false, fraudulent or deliberately misleading as to any material matter, that person shall pay, with respect to each taxpayer to whom the statement is made, a penalty equal to \$5,000, or, if the person establishes that it is lesser, 100 per cent of the gross income derived or to be derived from the activity described in this subsection. The penalty imposed under this subsection may be assessed against the person within 6 years after the statement was made. A claim for abatement of the penalty shall be filed within 2 years from the time the assessment was made.

(b) Except as otherwise provided in this section, the penalties imposed under this section shall be administered in accordance with the rules set forth in this chapter for the administration of taxes generally.

SECTION 15. Section 36A of said chapter 62C of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

If the commissioner determines that he has made any payment in error, he shall notify the person to whom payment was made, in writing, making demand for repayment. If within 30 days thereafter the amount demanded is repaid in full, no interest shall be due. If repayment of the full amount demanded is not made within 30 days, the outstanding sum shall, without further action by the commissioner, be considered to be a tax assessed under this chapter as of the date of the demand, and subject to all the provisions thereof.

SECTION 16. Section 43 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 3, the words "fifty dollars" and inserting in place thereof the following figure:- \$100.

SECTION 17. Section 49A of said chapter 62C, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) A person applying to any department, board, commission, division, authority, district or other agency of the commonwealth or a subdivision of the commonwealth, including a city, town or district, for a right or license to conduct a profession, trade or business or for the renewal of the right or license, shall certify upon application, under penalties of perjury, that he has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

(b) Upon receipt of the application, and once the commissioner has promulgated applicable regulations and implemented to his satisfaction the manner and method, including electronic data matching, by which verification may be obtained, the department or other entity charged with issuing the right or license shall confirm that the applicant is in good standing with respect to all returns due and taxes payable to the commissioner as of the date of issuance of the confirmation. An applicant shall be considered to have consented to the commissioner's release of tax and child support data to the department or other entity to the extent necessary to confirm the applicant's adherence to the tax and child support laws of the commonwealth. A right or license shall not be issued or renewed unless the issuer has con-

firmed the tax or child support status of the applicant as required herein; but, the commissioner may issue waivers of the requirements of this subsection for reasonable cause, and the existence of a non-frivolous appeal of a tax or child support assessment, or of a payment agreement with which the taxpayer is fully compliant shall not prevent issuance of the license.

No contract or other agreement for the purposes of providing goods, services or real estate space to any of the foregoing agencies shall be entered into, renewed or extended with any person unless the person certifies in writing, under penalties of perjury, that he has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support and, subject to the conditions stated above, the contracting agency confirms with the commissioner that the person is in good standing with respect to all returns due and taxes payable to the commissioner as of the date of confirmation.

SECTION 18. Subsection (a) of section 50 of said chapter 62C, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- The lien shall also extend to property or rights to property of a trust with respect to tax amounts due from a grantor or other person treated as the owner of a portion of such trust by reason of sections 671-678 of the Code, and to property or rights to property of a disregarded entity with regard to tax amounts due from the owner of the entity, but with respect to real property and fixtures, the lien shall not be valid against a mortgagee, pledge, purchaser or judgment creditor unless the notice to be recorded pursuant to paragraph (1) of subsection (b) includes therein the names of the persons in whom the record title to the real property or fixtures stands at the time of recording the notice.

SECTION 19. Section 30 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out, in lines 17 to 19, inclusive, the words "nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year,".

SECTION 20. Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 42 to 44, inclusive, the words "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,".

SECTION 21. Said section 30 of said chapter 63, as so appearing, is hereby further amended by inserting after the word "allowed.", in line 89, the following sentence:- In the case of a corporation exempt from taxation under section 501 of the Code, "net income" means unrelated business taxable income, as defined in section 512 of the Code.

SECTION 22. Said section 30 of said chapter 63, as so appearing, is hereby further amended by inserting after paragraph 8 the following paragraph:-

9. Notwithstanding paragraph 8, the net worth of a domestic business corporation taxable under clause (1) of subsection (a) of section 32 or of a foreign corporation taxable under clause (1) of subsection (a) of section 39 that is a qualified real estate investment trust shall be such portion of the book value of its total assets less its liabilities on the last day of

the taxable year as the book value of its tangible assets situated within the commonwealth on said date and not subject to local taxation plus the amount of its intangible assets on said date allocable to this commonwealth, as hereinafter determined, bear to the book value of its total assets on said date. The intangible assets allocable to this commonwealth shall be such portion of the book value of its total intangible assets on the last day of the taxable year, less the book value on said date of its investment in and advances to subsidiary corporations which represent 80 per cent or more of the voting stock of said corporations, as shall be found by multiplying said amount by such corporation's income apportionment percentage, as determined under section 38. In determining the book value of any asset, the commissioner may disallow any reserve, in whole or in part, with respect thereto which, in his judgment, is not reasonable and proper. For the purpose of this paragraph, "qualified real estate investment trust" shall mean a domestic or foreign corporation that both qualifies as a real estate investment trust under section 856 of the Code, as defined in paragraph 16 of this section, and that is required to file with the Securities and Exchange Commission annual and other reports as specified in Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended; and "advances" shall mean such interests in a corporation where a corporation-shareholder relationship exists, determined under such regulations as the commissioner may issue and under section 385 of the Federal Internal Revenue Code as amended and in effect for the taxable year and the regulations issued thereunder.

SECTION 23. Said section 31A of said chapter 63, as so appearing, is hereby further amended, by striking out, in line 129 and in line 155, the parenthetical "(1)".

SECTION 24. Said section 31A of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 130 to 132, inclusive, the words ", or (2) is considered recovery property under section one hundred and sixty-eight of said Code".

SECTION 25. Said section 31A of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 156 to 158, inclusive, the words ", or (2) is considered recovery property under section one hundred and sixty-eight of said Code".

SECTION 26. Section 38 of said chapter 63, as so appearing, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this commonwealth during the taxable year, and the denominator of which is the total sales of the corporation everywhere during the taxable year. As used in this subsection, unless specifically stated otherwise, "sales" means all gross receipts of the corporation, including deemed receipts from transactions treated as sales or exchanges under the Code, except interest, dividends, and gross receipts from the maturity, redemption, sale, exchange or other disposition of securities, provided, however, that "sales" shall not include gross receipts from transactions or activities to the extent that a non-domiciliary state would be prohibited from taxing the income from such transactions or activities under the Constitution of the United States. Sales of tangible personal property are in this commonwealth if:-

1. the property is delivered or shipped to a purchaser within this commonwealth regardless of the f. o. b. point or other conditions of the sale; or

2. the corporation is not taxable in the state of the purchaser and the property was not sold by an agent or agencies chiefly situated at, connected with or sent out from premises for the transaction of business owned or rented by the corporation outside this commonwealth. "Purchaser", as used in clauses 1 and 2 of this paragraph, shall include the United States government.

Sales, other than sales of tangible personal property, are in this commonwealth if:-

1. the income-producing activity is performed in this commonwealth; or

2. the income-producing activity is performed both in and outside this commonwealth and a greater proportion of this income-producing activity is performed in this commonwealth than in any other state, based on costs of performance.

For the purposes of this subsection: (1) in the case of the licensing of intangible property, the income-producing activity shall be considered to be performed in the commonwealth to the extent that the intangible property is used in the commonwealth; (2) the corporation shall be considered to be taxable in the state of the purchaser if the tangible personal property is delivered or shipped to a purchaser in a foreign country; (3) sales of tangible personal property to the United States government or any agency or instrumentality thereof for purposes of resale to a foreign government or any agency or instrumentality thereof are not sales made in the commonwealth; (4) in the case of the sale, exchange or other disposition of a capital asset, as defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business, including a deemed sale or exchange of such asset, "sales" are measured by the gain from the transaction; and (5) "security" means any interest or instrument commonly treated as a security as well as other instruments which are customarily sold in the open market or on a recognized exchange, including, but not limited to, transferable shares of a beneficial interest in any corporation or other entity, bonds, debentures, notes, and other evidences of indebtedness, accounts receivable and notes receivable, cash and cash equivalents including foreign currencies, and repurchase and futures contracts.

Notwithstanding the foregoing, mutual fund sales by a mutual fund service corporation as defined in subsection (m), other than the sale of tangible personal property, shall be assigned to this commonwealth to the extent that shareholders of the regulated investment company are domiciled in this commonwealth as follows:

(a) by multiplying the mutual fund service corporation's total dollar amount of sales of such services on behalf of each regulated investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the regulated investment company's shareholders domiciled in this commonwealth at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the mutual fund service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the regulated investment company shareholders everywhere at the beginning of and at the end of the regulated investment company's taxable year that ends

with or within the mutual fund service corporation's taxable year.

(b) A separate computation shall be made to determine the sale for each regulated investment company, the sum of which shall equal the total sales assigned to the commonwealth.

The commissioner shall promulgate regulations to implement this paragraph.

SECTION 27. Section 38C of said chapter 63 is hereby amended by adding the following paragraph:-

For purposes of this section and section 38, the development and sale of standardized computer software shall be considered a manufacturing activity, without regard to the manner of delivery of the software to the customer.

SECTION 28. Said chapter 63 is hereby amended by inserting after section 38S, the following section:-

Section 38T. (a) Every foreign or domestic corporation which is exempt from taxation under section 501 of the Code shall be subject to tax under section 32 or 39 on its unrelated business taxable income, as defined in section 512 of the Code. The property or net worth of the corporation shall not be subject to tax under this chapter and the minimum excise under section 32 or 39 shall not apply. If a corporation has unrelated business taxable income that is taxable both within and without the commonwealth, it may apportion its net income to the commonwealth pursuant to section 38, provided that its apportionment factors shall be determined by reference only to the unrelated business activity of the corporation. The credits allowed under this chapter shall be determined only with respect to the unrelated business activity of the corporation.

(b) An entity that is exempt from taxation under section 501 of the Code shall not be considered to be a foreign or domestic corporation for purposes of chapter 59.

SECTION 29. Section 42B of said chapter 63, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

For purposes of this section and section 38, the development and sale of standardized computer software shall be considered a manufacturing activity, without regard to the manner of delivery of the software to the customer.

SECTION 30. Chapter 64G of the General Laws is hereby amended by striking out section 7B, as so appearing, and inserting in place thereof the following section:-

Section 7B. Every operator who fails to pay to the commissioner any sums required to be paid by this chapter shall be personally and individually liable therefor to the commonwealth. The term "operator", as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership or a limited liability company, who as such officer, employee or member is under a duty to pay over the taxes imposed by this chapter.

SECTION 31. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out, in line 210, the word "and".

SECTION 32. Said section 1 of said chapter 64H, as so appearing, is hereby further amended by inserting after the word "amended", in line 212, the following words:- ; and (vii) a "service charge" or "tip" that is distributed by a vendor to service employees, wait staff employees or service bartenders as provided in section 152A of chapter 149.

SECTION 33. Said section 1 of said chapter 64H, as so appearing, is hereby further amended by striking out, in line 230, the word "also".

SECTION 34. Said section 1 of said chapter 64H, as so appearing, is hereby further amended by inserting after the word "steam.", in line 230, the following 2 sentences:- A transfer of standardized computer software, including but not limited to electronic, telephonic, or similar transfer, shall also be considered a transfer of tangible personal property. The commissioner may, by regulation, provide rules for apportioning tax in those instances in which software is transferred for use in more than one state.

SECTION 35. Paragraph (q) of section 6 of said chapter 64H, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) Sales of both returnable and nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

SECTION 36. Paragraph (qq) of said section 6 of said chapter 64H, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Sales of gas, steam, electricity or heating fuel for use by any business that has 5 or fewer employees that had gross income of less than \$1,000,000 for the preceding calendar year, and that reasonably expects gross income of less than \$1,000,000 for the current calendar year.

SECTION 37. Said chapter 64H is hereby further amended by striking out section 16, as so appearing, and inserting in place thereof the following section:-

Section 16. Every person who fails to pay to the commissioner any sums required by this chapter shall be personally and individually liable therefor to the commonwealth. The term "person", as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership or limited liability company, who as such officer, employee or member is under a duty to pay over the taxes imposed by this chapter.

SECTION 38. Chapter 64I of the General Laws, is hereby amended by striking out section 17, as so appearing, and inserting in place thereof the following section:-

Section 17. A person who fails to pay to the commissioner any sums required by this chapter shall be personally and individually liable therefor to the commonwealth. The term "person", as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership or limited liability company, who as such officer, employee or member is under a duty to pay over the taxes imposed by this chapter. A person shall not be personally or individually liable for uncollected use tax due from a corporation,

partnership, or limited liability company on its purchases of tangible personal property purchased for use of the corporation, partnership or limited liability company unless the person's failure to pay the tax was willful or unless the person made personal use of the property subject to tax.

SECTION 39. Chapter 93 of the General Laws is hereby amended by striking out section 52A, as so appearing, and inserting in place thereof the following section:-

Section 52A. The IV-D agency, as set forth in chapter 119A, shall report periodically to consumer reporting agencies the name of any non-custodial parent who is delinquent in the payment of child support, and the amount of overdue support owed by the parent, subject to the requirements of the following paragraph. The IV-D agency shall report information only to an entity that has furnished satisfactory evidence that the entity is a consumer reporting agency.

Before reporting the name of any person who is delinquent in the payment of child support to a consumer reporting agency, the IV-D agency shall afford the person notice and due process pursuant to sections 6 and 17 of chapter 119A. Nothing in this section shall impair the rights of any obligor under federal or state law regarding consumer credit reports or consumer credit reporting agencies.

SECTION 40. Section 23 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the last 2 sentences and inserting in place thereof the following 3 sentences:- The department shall obtain and provide to the IV-D agency, as set forth in chapter 119A, an assignment of support rights on behalf of each child receiving foster care maintenance payments pursuant to Title IV, Part E, of the Social Security Act. The department shall be subrogated to the rights of each such child and shall obtain and provide to the IV-D agency information that may be reasonably necessary to enforce the department's right, including, but not limited to the following information: the child's name, date of birth, place of birth, Social Security number, address and benefit level and, if known, each parent's name, date of birth, place of birth, Social Security number, most recent address and most recent employer. The department shall notify said IV-D agency forthwith when a child whose rights to support are subrogated no longer receives foster care maintenance payments pursuant to Title IV, Part E, of the Social Security Act.

SECTION 41. The second paragraph of subsection (a) of section 2 of chapter 119A of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- In enforcing such subrogation rights, the IV-D agency may proceed to establish a support order pursuant to section 32F of chapter 209, or to establish paternity or a support order pursuant to chapter 209C, notwithstanding the failure of the obligee whose rights to support have been subrogated to the commonwealth to attend a hearing in an action pursuant to said chapters, upon a showing that written notice of the hearing was provided to the obligee by first class mail to the most recent residential address that the obligee has provided to the department of transitional assistance, the department of social services or the division of medical assistance.

SECTION 42. Section 3B of said chapter 119A, as so appearing, is hereby amended by inserting after the words "subsection (a)", in line 69, the following words:- , the notice pursuant to subsection (b) shall specify the threshold for modification and shall identify the sources of the financial information relating to the parties, including tax information pursuant to chapter 62C and wage reporting information pursuant to chapter 62E that serves as the basis for the calculation of the amount of support in the proposed stipulation.

SECTION 43. Said section 3B of said chapter 119A, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 44. Section 6 of said chapter 119A, as so appearing, is hereby amended by inserting after the word "situations", in lines 16 and 17, the following words:- ; seeking a warrant pursuant to section 34A of chapter 215 in appropriate situations.

SECTION 45. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 119 and 121, the word "six" and inserting in place thereof, in each instance, the following figure:- 10.

SECTION 46. Section 10 of chapter 200A of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(i) On or about January 1 of each year and quarterly thereafter, the treasurer shall review information made available by the IV-D agency, as set forth in chapter 119A, and by the department of revenue to ascertain if any person, as defined in section 1, with an interest in property surrendered to the state treasurer under this chapter owes past due child support and is subject to a present child support lien pursuant to section 6 of said chapter 119A, and to ascertain if any person with an interest in property surrendered to the state treasurer owes any past due tax liability to the commonwealth and is subject to a present tax lien pursuant to section 50 of chapter 62C. If a person with an interest in property surrendered to the state treasurer under this chapter owes past due child support or any past due tax liability, the treasurer shall notify the IV-D agency or the department of revenue, respectively, of the person's name, address, social security number, and taxpayer identification number, if available.

(1) If the person with an interest in property surrendered to the state treasurer under the provisions of this chapter is the sole registered owner of the property surrendered to the state treasurer, the treasurer shall first disburse to the IV-D agency the full amount of the funds held in the abandoned property trust fund owing to the person or such portion of the property held that satisfies the person's past due child support obligation. If funds remain available after a disbursement to the IV-D agency, or if no such obligation to the IV-D agency is owed, the treasurer shall disburse to the department of revenue the full amount of the funds held in the abandoned property trust fund owing to the person or such portion of the property held that satisfies the person's past due tax liability.

(A) If any such property surrendered to the state treasurer is subject to possible liquidation in accordance with section 9, the property shall be held subject to an administrative lien preventing payment to the reported owner. Payment shall be made in accordance with paragraph (1) subsequent to any liquidation by the treasurer.

(B) The treasurer shall disburse to any person only that portion of the property surrendered not used to offset any child support obligation or outstanding tax liability.

(2) If the person with an interest in property surrendered to the state treasurer under this chapter is not the sole registered owner of the property surrendered to the state treasurer, the IV-D agency, or the department of revenue must notify all registered owners at the address provided by the treasurer of their right to request an administrative review pursuant to sections 6 and 17 of chapter 119A or sections 53 to 64, inclusive, of chapter 62C before any disbursement by the treasurer pursuant to paragraph (1) of this section. The treasurer shall notify the IV-D agency or the department of revenue, respectively, of the names and addresses of all registered owners, if available.

(3) Pursuant to paragraph (8) of subsection (b) of section 6 of chapter 119A and subsection (d) of section 54 of chapter 62C, if the treasurer makes a payment to the IV-D agency or the department of revenue under this section the treasurer shall be discharged from any obligation or liability arising from the payment.

(4) A person aggrieved by the transfer of property to the IV-D agency or the department of revenue may pursue administrative remedies pursuant to sections 6 and 17 of chapter 119A or sections 53 to 64, inclusive, of chapter 62C, respectively.

(5) Information provided by the IV-D agency or the department of revenue to the treasurer under this section may only be used for the purpose of assisting the IV-D agency in collecting past-due child support or the department of revenue in collecting past due tax liability. A person who uses the information for any other purpose shall be liable in a civil action to the IV-D agency or the department of revenue in the amount of \$1,000 for each violation.

SECTION 47. Subsection (a) of section 32F of chapter 209 of the General Laws, as so appearing, is hereby amended by adding the following 2 sentences:- In an action pursuant to this section where the rights to support of a party have been subrogated to the commonwealth pursuant to chapters 18, 119, or 118E, or Title IV, Parts A or E, or Title XIX of the Social Security Act, or any other public assistance program as required by federal or state law, the court shall proceed to establish an order for support pursuant to this section, notwithstanding the failure of the party to attend a hearing, upon a showing that written notice of the hearing was provided to the party by first class mail to the most recent residential address that the party has provided to the department of transitional assistance, the department of social services or the division of medical assistance. For good cause shown, the court may set aside an entry of default and, if an order or judgment has been entered, may likewise set aside the order or judgment in accordance with rule 60(b) of the rules of domestic relations procedure.

SECTION 48. Section 4 of chapter 209C of the General Laws, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:- Actions under this chapter to establish paternity, support, custody or visitation of a child shall be filed in the judicial district or county in which the child and 1 of the parents lives and if neither of the parents lives in the same judicial district or county

as the child then the complaint shall be filed in the judicial district or county where the child lives; but, if the parents have been parties to a prior action under this chapter and that action has not been dismissed, a subsequent action under this chapter may be filed in the judicial district or county where the earlier action was filed.

SECTION 49. Section 16 of said chapter 209C, as so appearing, is hereby amended by adding the following 2 subsections:-

(h) In an action pursuant to this chapter where the rights to support of a party have been subrogated to the commonwealth pursuant to chapters 18, 119, or 118E, or Title IV, Parts A or E, or Title XIX of the Social Security Act, or any other public assistance program as required by federal or state law, the court shall proceed to establish orders pursuant to this chapter, notwithstanding the failure of the party to attend a hearing, upon a showing that written notice of the hearing was provided to the party by first class mail to the most recent residential address that the party has provided to the department of transitional assistance, the department of social services or the division of medical assistance. For good cause shown, the court may set aside an entry of default and, if an order or judgment has been entered, may likewise set aside such order or judgment in accordance with rule 60(b) of the rules of domestic relations procedure.

(i) In an action pursuant to this chapter in a case receiving IV-D services, the court shall, upon good cause shown and upon verification of identity satisfactory to the court, permit a party to testify in an action pursuant to this chapter by telephone; and upon a showing that a party is incarcerated, permit the party to submit testimony by affidavit.

SECTION 50. Section 23 of said chapter 209C, as so appearing, is hereby amended by inserting after the word "void", in line 4, the following words:- , except as to any support arrearage which is owed to the commonwealth as reimbursement for public assistance and which accrued before the date that the parents intermarry.

SECTION 51. Section 34A of chapter 215 of the General Laws, as so appearing, is hereby amended by inserting before the word "Actions", in line 1, the following:- (a).

SECTION 52. Said section 34A of said chapter 215, as so appearing, is hereby further amended by adding the following subsection:-

(b) Upon the request of the IV-D agency as set forth in chapter 119A, when a total arrearage amounting to the support owing for a 6-month period has accrued under the defendant's most recent order or judgment for support and the IV-D agency has been unable to bring the defendant before the court on a capias, the court shall issue a warrant for the arrest of the defendant. The IV-D agency shall file an affidavit accompanying the request for a warrant that states: (1) a total arrearage amounting to the support owing for a 6-month period has accrued under the defendant's most recent order or judgment for support; (2) the amount of the total arrearage; (3) the date of the last payment, if any; and (4) a description of the efforts made to serve the capias on the defendant. The IV-D agency shall also provide the court with identifying information on the defendant's name, last known address, date of birth, gender, race, height, weight, hair and eye color, any known aliases and any such information as shall be required for a warrant to be accepted by the criminal justice informa-

tion system maintained by the criminal history systems board. A warrant that contains the above identifying information as provided by the IV-D agency to the court shall not be nullified if the information is later found to be inaccurate. If any of the above identifying information is not known to the IV-D agency, the IV-D agency may apply to the court for an exemption from the requirement to provide the information. The court shall grant the exemption if the court decides that the unknown information is not essential to identifying the defendant. The defendant may not challenge the validity of a warrant based on the granting of the exemption. The court shall enter the warrant, including the identifying information provided by the IV-D agency to the court and the name of the court that issued the warrant, into the warrant management system as set forth in section 23A of chapter 276. The warrant shall consist of the information that appears in the warrant management system, and a printout of the warrant from the criminal justice information system shall constitute a true copy of the warrant. The entry of the warrant into the warrant management system and the criminal justice information system shall constitute notice and delivery of the warrant to all law enforcement agencies who have arresting authority pursuant to section 23 of chapter 276.

Upon arrest, the arresting authority shall arrange for transportation of the defendant to the court that issued the warrant. If the defendant is arrested when the court is not in session, the defendant shall be held by the arresting authority or county jail facility, and transported to the issuing court during the next session and presented to the court. If the defendant voluntarily submits his person to the court, he shall likewise be brought before the court. The court shall notify the IV-D agency and conduct a hearing to recall the warrant and shall issue an order for the defendant to do one or more of the actions set forth in clauses (1) to (6), inclusive, of section 34.

Whenever a warrant is recalled or removed, the court shall, without unnecessary delay, enter the recall or removal in the warrant management system which entry shall be electronically transmitted to the criminal justice information system. The court shall also provide to the defendant a notice of recall of warrant.

A law enforcement officer who in the performance of his duties relies in good faith on the warrant appearing in the warrant management system shall not be liable in any criminal prosecution or civil action alleging false arrest, false imprisonment, or malicious prosecution or arrest by false pretense.

The issuing court shall provide notice no later than 30 days after the issuance of the warrant to the defendant. The notice shall contain information on the name and address of the issuing court, the date of the last payment of child support, if any, the amount of the total child support arrearage, a description of the method by which the defendant may clear the warrant and a summary of the consequences the defendant may face for not responding to the warrant. The notice shall be deemed satisfactory if mailed to the address stated on the warrant.

If a warrant remains outstanding for 1 year following the date that the warrant is entered into the warrant management system it shall constitute evidence of willful nonsupport

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in a criminal action pursuant to chapter 273.

SECTION 53. Chapter 258 of the General Laws is hereby amended by adding the following section:-

Section 14. For the purpose of satisfying liens for past due child support, securing repayment of public assistance benefits, and past taxes, a public employer shall comply with sections 24D, 24E, and 24F of chapter 175 and any regulations promulgated thereunder in the same manner as if it were a company authorized to issue policies of insurance pursuant to said chapter 175.

SECTION 54. Section 15A of chapter 273 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "them", in line 5, the following word:- or.

SECTION 55. Section 23 of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting, after the word "crime", in line 2, the following words:- and child support warrants issued pursuant to section 34A of chapter 215.

NO SECTION 56.

SECTION 57. Section 413 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION 57A. The introductory clause of section 414 of said chapter 149 is hereby amended by striking out the date "January 1, 2002" and inserting in place thereof the following date:- January 1, 2003.

SECTION 57B. Notwithstanding any general or special law to the contrary, to the extent that, as a result of the enactment of sections 57 and 57A, any taxpayer has overpaid tax due under chapter 62 of the General Laws with respect to long term capital gains recognized in taxable years beginning on or after January 1, 2002 and before January 1, 2003, the following provisions shall apply:

(a) Such taxpayers may apply for abatement of the overpayment of tax on long-term capital gains for said taxable years pursuant to section 37 of chapter 62C of the General Laws, on or before June 30, 2006, within 3 years from the due date for such return, determined without regard to extensions, within 2 years from the date of assessment or deemed assessment of such tax on long-term capital gains, or within 1 year of the date of payment of such tax on long-term capital gains, whichever is later.

(b) The taxpayer must apply for such abatement upon the forms or in the manner determined by the commissioner of revenue and shall provide such documentation of the overpayment as the commissioner may require.

(c) The commissioner shall abate any such overpayment in 4 annual installments, substantially equal in amount, without interest.

(d) The commissioner shall offset any proposed abatement under this section by the amount of any additional tax due from the taxpayer under chapter 62 of the General Laws for the taxable year, whether or not the additional tax relates to capital gains, and whether or not such additional tax may otherwise be timely assessed under said chapter 62C.

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(e) An amount due to be refunded to a taxpayer under this section shall not be treated as a tax payment or credit until such time as it becomes payable under paragraph (c).

(f) This section shall be the exclusive basis for any claim for refund of an overpayment of tax under chapter 62 of the General Laws with respect to long term capital gains recognized in taxable years beginning on or after January 1, 2002, and before January 1, 2003, and resulting from enactment of sections 57 and 57A of this act. No interest shall accrue or be payable with respect to such refunds, pursuant to section 40 of chapter 62C of the General Laws or otherwise.

(g) To the extent not inconsistent with the provisions of this act, the provisions of chapter 62C of the General Laws, including without limitation provisions allowing offsets of refunds for unpaid tax assessments, child support obligations, or other applicable obligations, shall apply to refunds under this section.

(h) Notwithstanding paragraph (c), for reasons of administrative convenience, the commissioner may in his discretion refund payments to a taxpayer that total \$1000 or less in a single lump sum, without interest.

SECTION 58. Notwithstanding any general or special law to the contrary, the comptroller shall transfer \$20,000,000 from the Commonwealth Stabilization Fund to the General Fund within 10 days of the effective date of this act.

SECTION 59. Sections 19 to 21, inclusive, and sections 27 to 29 inclusive, shall apply to taxable years beginning on or after January 1, 2006.

SECTION 60. Sections 3 and 26 shall apply to taxable years beginning on or after January 1, 2005.

SECTION 61. Sections 17, sections 31 to 34, inclusive, and section 36 shall be effective the first day of the fourth month following the date of passage.

SECTION 62. Sections 10 and 11 shall apply to final determinations made on or after the effective date of this act.

SECTION 63. Section 12 shall apply to returns filed on or after the effective date of this act.

SECTION 64. Section 14 shall apply to statements made on or after the effective date of this act.

SECTION 65. Sections 46 and 53 shall be effective 6 months after the effective date of this act.

SECTION 66. Section 22 shall be effective for tax years ending on or after August 9, 2004.

Approved December 8, 2005.

Chapter 164. AN ACT AUTHORIZING A DEPARTMENT OF FINANCIAL SERVICES IN THE TOWN OF WELLESLEY.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 555 of the acts of 1978, as amended by section 1 of chapter 247 of the acts of 1995, is hereby further amended by striking out the first and second paragraphs and inserting in place thereof the following two paragraphs:-

Notwithstanding any general or special law to the contrary, the town of Wellesley is hereby authorized to establish by by-law a department of financial services. Any such by-law shall provide that the department shall be responsible to the executive director of general government services who shall be appointed by the board of selectmen as the town's chief operating officer. The department's duties and responsibilities may include, but not be limited to, the following: coordination and administration of town financial services and activities, including without limitation the town's financial planning and budgets, and investment of town funds; maintenance of town accounting records and financial statements; payment of all town obligations, after securing required approvals; assisting in the development of budgets and reviewing of all budgets for format, completeness, and accuracy before submission to the advisory committee; monitoring of all expenditures of town funds; timely reporting to the board of selectmen and to other appropriate boards and officers of actual or foreseeable incurring of obligations of expenditures of funds in excess of budgeted appropriations; maintenance of payroll and other financial records relating to all town personnel; preparing and supervising town purchasing and inventory control procedures; administering the disposal of town property; and assisting the executive director in the supervision of all data processing and the development and enforcement of internal controls.

The department shall be under the supervision and management of the finance director, who shall be appointed by the executive director subject to the approval of the board of selectmen for a term of up to 3 years commencing on July first. The finance director shall be the chief financial officer of the town. The finance director shall serve as the town comptroller and town accountant. The finance director shall appoint annually as of July 1, subject to the approval of the executive director, a town treasurer and collector of taxes, who shall be subject to the direction and supervision of the finance director and shall have, except as otherwise expressly provided by this act, the powers and duties vested by law in town treasurers and collectors of taxes.

SECTION 2. Section 2 of chapter 247 of the acts of 1995 is hereby repealed.

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

Approved December 12, 2005.

Chapter 165. AN ACT FURTHER REGULATING THE OPENING OF RETAIL STORES ON SUNDAYS AND HOLIDAYS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to clarify the laws regulating Christmas holiday retail closings, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Clause (50) of section 6 of chapter 136 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The keeping open of a store or shop and the sale at retail of goods therein, but not including the retail sale of goods subject to chapter 138, and the performance of labor, business, and work directly connected therewith on Sunday. This exemption shall not apply to any legal holiday as defined in clause eighteenth of section 7 of chapter 4, but this exemption shall apply to the day following Christmas Day when Christmas occurs on a Sunday. In any year in which Christmas Day occurs on a Sunday, this exemption shall not apply to that Sunday.

SECTION 2. The third paragraph of section 15 of said chapter 136, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Permits for work on legal holidays in stores covered by clause (50) of section 6 shall not be granted without the approval of the department of labor, which shall approve such permits only on a uniform basis statewide, but no such permit shall be required for such stores on the legal holidays covered by sections 13 and 16 and for the legal holiday, as defined in clause eighteenth of section 7 of chapter 4 on the day after Christmas Day in any year in which Christmas Day occurs on Sunday.

SECTION 3. Section 16 of said chapter 136, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

All stores and shops which sell goods at retail may be open at any time on Sundays and on Memorial Day, July Fourth and Labor Day, but no such stores and shops may be open on Christmas Day if Christmas occurs on a Sunday. The performance of labor, business and work directly connected to retail sales on these days shall also be allowed. Stores and shops allowed to open under this section may sell on these days all types of goods and foodstuffs which may lawfully be offered for sale in the commonwealth other than alcoholic beverages. To the extent that this section is inconsistent with section 6 or any other general or special law, this section shall control.

Approved December 15, 2005.

**Chapter 166. AN ACT ESTABLISHING THE OFFICE OF FINANCE DIRECTOR
IN THE CITY OF NORTHAMPTON.**

Be it enacted, etc., as follows:

SECTION 1. Section 10 of chapter 250 of the acts of 1883 is hereby amended by striking out, in lines 3 and 4, the words "city treasurer."

SECTION 2. Section 15 of said chapter 250 is hereby amended by striking out, in line 6, the words "a city auditor".

SECTION 3. Said chapter 250 is hereby further amended by striking out section 16 and inserting in place thereof the following section:-

Section 16. The city clerk shall hold office for the municipal year next following the clerk's election and until the clerk's successor is elected and qualified. Any vacancy occurring in this office may be filled for the remainder of the term by concurrent ballot of the city council. The city clerk shall receive such compensation as the city council shall determine.

SECTION 4. Said chapter 250 is hereby further amended by inserting after section 19 the following 2 sections:-

Section 19A. The finance director of the city of Northampton, shall be appointed by the mayor with confirmation by the city council whenever a vacancy in the office of finance director shall occur, and may be removed at any time by the mayor in like manner. Except as otherwise provided in this section, the finance director shall assume the duties of the office on the day following appointment and shall serve until removal by the mayor.

The finance director shall be responsible to the mayor. Upon recommendation by the mayor and majority vote of the city council, the finance director may serve, *ex officio*, as the accountant, auditor, comptroller, treasurer, collector or treasurer-collector, but the finance director shall not serve, *ex officio*, as both accountant, auditor or comptroller and treasurer, collector or treasurer-collector. In addition, upon recommendation of the mayor and approval by majority vote of the city council, the positions of collector and treasurer may be combined into a single collector-treasurer position, to be filled by appointment of the finance director.

The finance director shall provide professional financial management advice to the mayor and to the city council as needed to ensure sound short-term and long-term fiscal health for the city. The city council may at any time request from the financial director specific information on any financial matters within its jurisdiction and may request the finance director to be present to answer questions about these financial matters at a meeting to be held not earlier than 1 week after the date of the receipt by the mayor and finance director of the request. The finance director shall personally attend the meeting and publicly answer all questions.

Section 19B. The finance director shall appoint the treasurer, tax collector, auditor and principal assessor whenever a vacancy in those offices occurs. Thereafter all appointees to those positions shall be subject to the rules and regulations for management positions in

the city.

SECTION 5. Said chapter 250 is hereby further amended by striking out sections 20 and 21 and inserting in place thereof the following section:-

Section 20. There shall be a board of assessors consisting of a principal assessor and 2 associate assessors. The board of assessors shall have all the powers, duties and obligations of assessors under the laws of the commonwealth.

The principal assessor shall be appointed by the finance director and shall be subject to the rules and regulations for management positions in the city.

The associate assessors shall be appointed by majority vote of the city council. The first appointments under this section shall be made by the city council at its first meeting after the effective date of this section, and the appointees shall assume the duties of their office immediately upon their appointment. The associate assessors may receive such compensation as the city council may determine.

SECTION 6. Section 1 of chapter 265 of the acts of 1927 is hereby amended by striking out, in line 3, the words "city treasurer,".

SECTION 7. Section 2 of said chapter 265 is hereby amended by striking out, in line 4, the words "city treasurer,".

SECTION 8. Chapter 245 of the acts of 1946 is hereby amended by striking out, in line 3, the words "city treasurer,".

SECTION 9. The incumbent in the office of finance director on the effective date of this act shall remain in office until his current appointment expires and then shall be reappointed by the mayor to serve in the new position until removed by the mayor.

Approved December 15, 2005.

Chapter 167. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2006 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 beginning July 1, 2005, and to make certain changes in law, 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 2006, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated other-

wise 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, 2006. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

SECTION 2.

EXECUTIVE OFFICE OF PUBLIC SAFETY

Department of Correction

8900-0001 12,800,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are 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, 2006. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver General.

0610-2000 For payments made to veterans pursuant to section 16 of chapter 130 of the acts of 2005 ; provided, that the office of the state treasurer may expend not more than \$150,000 for costs incurred in the administration of these payments \$13,500,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-4082 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire sheriff's department and the Non-Uniformed Correctional Association, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further,

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that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$153,300

1599-4083 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire sheriff's department and the Hampshire County Senior Officers, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$102,152

1599-4084 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire sheriff's department and the Law Enforcement and Security Union Division of the United Food and Commercial Workers Union, Local 1459, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments

and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$341,026

1599-4085 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire sheriff's department and the United Food and Commercial Workers Union, Local 1459, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$79,518

1599-4086 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff and the Jail Officers Association, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance,

shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$676,763

1599-4087 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff and the American Federation of State, County and Municipal Employees, Council 93, Local 419, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$1,252,402

1599-4088 For a reserve to meet the fiscal year 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Barnstable county sheriff and the International Brotherhood of Correctional Officers, Local R1-72, and to meet the fiscal year 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits

to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$271,121

1599-4089 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden sheriff's department and the International Brotherhood of Correctional Officers, Local 248, NAGE, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$1,029,048

1599-4090 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden sheriff's department and the Hampden County Superior Correctional Officers Association, and to meet the fiscal year

2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$232,592

1599-4091 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Board of Higher Education and the Massachusetts State College Association, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$5,660,089

1599-4092 For a reserve to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits authorized by

the collective bargaining agreement between the Board of Higher Education and the Massachusetts Teachers Association/Massachusetts Community College Council, and to meet the fiscal year 2005 and 2006 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2006 amounts necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$6,571,052

EXECUTIVE OFFICE OF PUBLIC SAFETY
Gang Prevention Grant Program

8100-0011 For a grant program to be known as the "Senator Charles E. Shannon, Jr. Community Safety Initiative", to be administered by the executive office of public safety, to support regional, multi-disciplinary approaches to combat gang violence through coordinated programs for prevention and intervention; coordinated law enforcement, including regional gang task forces and regional crime mapping strategies; focused prosecutions; and reintegration strategies for ex-convicts; provided, that the secretary of public safety shall distribute grant funds through a competitive grant program that gives preference to applications that: (1) demonstrate high levels of youth violence, gang problems and substance abuse in a region; (2) demonstrate a commitment to regional, multi-jurisdictional strategies to deal with those community safety issues, including written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (3) clearly outline a

comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (4) make a written commitment to match grant funds with a 25 per cent match provided either by municipal or private contributions; and (5) identify a local governmental unit to serve as fiscal agent; provided further, that clusters of municipalities, in partnership with nonprofit organizations and other agencies, including district attorneys' offices, shall be eligible to apply for these funds; provided further, that those funds shall be considered one-time and grants awarded to public agencies shall not annualize in fiscal year 2007; provided further, that administrative costs for successful grant applications shall not exceed 3 per cent of the value of the grant; provided further, that no grants shall be awarded to the department of state police; provided further, that no grant funds shall be expended on food or beverages; provided further that the executive office of public safety shall publish guidelines and an application for the competitive portion of the grant program not later than April 15, 2006 and that awards shall be made to applicants not later than June 15, 2006; provided further, that the executive office of public safety may expend not more than \$100,000 of the sum appropriated in this item for its costs in administering this program; provided further, that the executive office of public safety shall submit a report to the house and senate committees on ways and means detailing the amount of the grants awarded to recipients and descriptions of the grants; and provided further, that each grant recipient shall provide the executive office of public safety with a comprehensive list of the best practices that have been instituted as a result of these grants \$11,000,000.

SECTION 3. Subparagraph (i) of paragraph (5) of subsection (1) of section 6 of chapter 62 of the General Laws, as appearing in section 1 of chapter 158 of the acts of 2005, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- All or any portion of tax credits issued in accordance with this subsection may be transferred, sold or assigned to other taxpayers with tax liabilities under this chapter or chapter 63.

SECTION 4. Chapter 130 of the acts of 2005 is hereby amended by striking out section 16 and inserting in place thereof the following section:-

Section 16. (a) Notwithstanding any general or special law to the contrary, upon application, as provided in this section, there shall be paid to each person who shall have served

in the armed forces of the United States in active service as part of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle who was discharged or released under honorable conditions from such service, the sums specified in this section; if the domicile of every person on account of whose service the application is filed shall have been in the commonwealth for a period of not less than 6 months before the time of his entry into the service.

(1) \$1,000 to each such veteran who performed active service outside the continental limits of the United States in the Afghanistan or Iraq area as those areas are described by proper federal authority.

(2) \$500 to each such veteran who performed active duty within the continental limits of the United States or outside the continental limits of the United States other than in the Afghanistan or Iraq areas for a period of 6 months or more.

(b) "Active service in the armed forces", as used in this section shall not include active duty for training in the Army National Guard or Air National Guard or active duty for training as a reservist in the armed forces of the United States.

As used in this act, the words "armed forces" shall have the following meaning:-

United States Army, Army of the United States, Army Reserves, United States Navy, United States Naval Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, Army Nurse Corps, Navy Nurse Corps, United States Air Force, United States Air Force Reserve, Air National Guard and Army National Guard and including women's branches of said armed forces.

(c) In the case of the decease of any person who would, if alive, be entitled to the benefits of this act, the sum named in this act shall be paid to the decedent's heirs-at-law; but if there is more than one heir-at-law, payments shall, in either case, be made in such proportions as the state treasurer shall determine, and in determining the order of precedence, so far as practicable, the following order shall be observed:- spouse and children, mother or father, brother or sister, other dependents. No right or payment under this act shall be subject to the claims of creditors, capable of assignment, regarded as assets, legal or equitable of the estate of the deceased or made the basis for administration thereof.

(d) In case of the decease of any person who died while in active service, there shall be paid the sum of \$1,000 subject to, and in the manner provided by subsection (c). In the case of any person who is mentally incompetent and is entitled to the benefits of this act and for whom no legal guardian has been appointed by court, the sum named in this act shall be paid to the decedent's dependents, and in determining the order of precedence so far as practicable, the following order shall be observed:- (i) spouse and children; (ii) mother or father; (iii) brother or sister; and (iv) other dependents.

(e) Applications under this section shall be filed with the state treasurer, upon forms to be furnished by him. The state treasurer may accept the written statement of the clerk of a city or town that a person claiming pay or on whose account pay is claimed by a dependent or heir-at-law, under the provisions of this act, was domiciled therein on the first day of January, in any year, as prima facie evidence of the fact of such domicile, and he may accept such other evidence of domicile as he may consider adequate or necessary. The clerks of the

several cities and towns shall, at the request of the state treasurer, forthwith furnish such information relative to such domicile as their records may disclose. The state treasurer may require and accept such additional evidence as he may consider necessary to establish the fact of domicile within the commonwealth as provided under section 1. The adjutant general shall certify to the state treasurer the dates of service and any other military information necessary to carry out the provisions of this act. The state treasurer shall furnish to the adjutant general a copy of Form DD-214 or equivalent documentation as determined by the adjutant general for the permanent records of the military division of the commonwealth. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under this act, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 3 years, or both. Offenses under this section may be prosecuted by the attorney general, or under his direction, in any court within the commonwealth, and all fines collected thereunder shall be paid to the treasury of the commonwealth. The state treasurer shall act upon all applications made under this section, and may expend for clerical assistance and for such other expenses sums necessary in carrying out this act, not exceeding the sums appropriated for this purpose. Any person aggrieved by a decision of the state treasurer in the matter of payments provided for by this act may appeal to a board, to consist of a member of the department of the state treasurer to be designated by him, an assistant attorney general to be designated by the attorney general, and the adjutant general or his designee, and shall be entitled to a hearing, after due notice, upon such appeal. The decision of the board shall be final.

SECTION 5. Section 3 shall be effective for tax years beginning on or after January 1, 2006 and before January 1, 2013.

Approved December 22, 2005.

Chapter 168. AN ACT AUTHORIZING THE CITY OF GARDNER 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 city of Gardner may grant to the Moon Hill Brewing Company, Inc. d/b/a Gardner Ale House a license to sell all alcoholic beverages to be drunk on the premises at 74 Parker street in said city 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 person, organization, corporation or location.

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

Approved December 28, 2005.

Chapter 169. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MAUREEN A. SULLIVAN, AN EMPLOYEE OF THE PAROLE BOARD.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the parole board shall establish a sick leave bank for Maureen A. Sullivan, an employee of the board. Any employee of the board may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Maureen A. Sullivan. Whenever Maureen A. Sullivan terminates employment with the board or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the extended illness leave bank.

Approved December 29, 2005.

Chapter 170. AN ACT RELATIVE TO THE BOARD OF SELECTMEN OF THE TOWN OF TOPSFIELD.

Be it enacted, etc., as follows:

SECTION 1. The number of members of the board of selectmen of the town of Topsfield shall be increased to 5. Each selectman shall serve for a 3-year term, with no more than 2 selectmen's terms to run concurrently. Notwithstanding the preceding sentence, at the annual town election in May of 2006, 1 additional member shall be elected for a 2-year term and 1 additional member shall be elected to a 3-year term. The terms of those members currently serving as selectmen at the time of the adoption of this act shall be unchanged.

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

Approved December 29, 2005.

Chapter 171. AN ACT AUTHORIZING THE TOWN OF PALMER TO GRANT TWO ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Palmer may grant 2 additional licenses for the sale of all

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alcoholic beverages to be drunk on the premises to KSJ Realty, LLC, and Real Estate Restoration, Incorporated d/b/a Steaming Tender Restaurant, under 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 person, organization, corporation or location.

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

Approved December 29, 2005.

Chapter 172. AN ACT PROVIDING FOR TWO ASSOCIATE CONSERVATION COMMISSION MEMBERS IN THE TOWN OF HANOVER.

Be it enacted, etc., as follows:

Notwithstanding section 8C of chapter 40 of the General Laws or any other general or special law to the contrary, the town of Hanover may, by amending its by-laws, provide that the conservation commission of the town of Hanover, may have 2 associate members. The associate members shall be appointed by the board of selectmen on the recommendation of the conservation commission, each for a term of 2 years. Associate members shall be authorized to act as conservation commission members, when asked to do so by the remaining members of the commission if a regular member is absent or unable to participate because of a conflict of interest or other reason or if a vacancy exists.

Approved December 29, 2005.

Chapter 173. AN ACT RELATIVE TO THE MONTACHUSETT REGIONAL PLANNING COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 32A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "council", in line 8, the following words:- , the Montachusett regional planning commission.

SECTION 2. Section 8 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "council", in line 95, the following words:- , the Montachusett regional planning commission.

Approved December 29, 2005.

Chapter 174. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARION DAWICKI, 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 department, 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 trial court shall establish a sick leave bank for Marion Dawicki, 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 Marion Dawicki. Whenever Marion Dawicki terminates employment with the trial court or request to dissolve the sick leave bank, the balance of the sick leave time shall be transferred to the trial court paid leave bank.

Approved December 29, 2005.

Chapter 175. AN ACT PROVIDING EMERGENCY PRESCRIPTION DRUG COVERAGE FOR SENIORS AND THE DISABLED.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide emergency drug coverage for seniors and the disabled, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 176K of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the definition of "Medicare" the following definition:-

"Medicare Part D", Medicare prescription drug coverage available to Medicare-eligible persons beginning January 1, 2006, as authorized under the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

SECTION 2. Subsection (c) of section 4 of said chapter 176K, as so appearing, is hereby amended by adding the following paragraph:-

Consistent with the implementation of Medicare Part D, no carrier that participates in the market shall offer any Medicare supplement insurance plans with prescription drug coverage. All Medicare supplement insurance plans with prescription drug coverage shall be closed to new enrollments, but shall be kept guaranteed renewable. A person enrolled in a Medicare supplement insurance plan with prescription drug coverage and who enrolls in

Medicare Part D shall be transferred to that person's carrier's most comparable Medicare supplement insurance plan without prescription drug coverage, unless that person chooses coverage under any of that carrier's other Medicare supplement insurance plans without prescription drug coverage. The coverage provided by such comparable plan shall become effective when the Medicare Part D coverage becomes effective. The rate for such comparable plan shall be the same rate that is in effect at the time of the transfer. The carrier shall notify all persons affected by this change and shall describe to those persons all the reasons for the respective coverage and rate changes.

SECTION 3. Notwithstanding any general or special law to the contrary, the secretary of health and human services shall design a financial wrap-around program for eligible persons under section 39 of chapter 19A of the General Laws, who are also eligible for prescription drug coverage under the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or its successor legislation. This wrap-around program shall ensure that no such person shall have out-of-pocket costs for a drug covered by his Medicare prescription drug plan that is higher than what he would be responsible for under said section 39 of said chapter 19A, or regulations under that section, if he were not eligible for Medicare prescription drug coverage. This program shall not apply to individuals with incomes at or greater than 500 per cent of the federal poverty level.

SECTION 4. Notwithstanding any general or special law to the contrary, the subsidized catastrophic prescription drug insurance program established in section 39 of chapter 19A of the General Laws shall provide coverage for a 1-time, 30-day supply of medications between January 1 and June 30, 2006 to enrollees under this section who are also eligible for Medicare prescription drug coverage. This coverage shall not apply if the enrollee's Medicare prescription drug plan will cover the prescribed medication at the time the prescription is presented. The coverage for each medication shall be subject to the same cost sharing arrangement applicable under the enrollee's Medicare prescription drug plan. For each subsequent medication which is not covered under the enrollee's Medicare prescription drug plan, the program shall provide coverage for a 1-time, 72-hour supply of such medication.

SECTION 5. Notwithstanding any general or special law to the contrary, the secretary of health and human services, in consultation with the director of Medicaid, shall authorize MassHealth payment for a 1-time, 30-day supply of prescribed medications between January 1 and June 30, 2006 for beneficiaries under chapter 118E of the General Laws who are also eligible for Medicare prescription drug coverage. This payment shall be authorized only if the beneficiary's Medicare prescription drug plan will not cover the prescribed medication at the time the prescription is presented. Any co-pays or deductibles that would have been charged to the beneficiary under MassHealth shall apply to this 1-time, 30-day supply during 2006. For each subsequent medication which is not covered under the enrollee's Medicare prescription drug plan, MassHealth shall provide coverage for a 1-time, 72-hour supply of such medication.

SECTION 6. Notwithstanding any general or special law to the contrary, the secretary of health and human services, in consultation with the director of Medicaid, shall authorize MassHealth payments to reduce prescription drug copayments to MassHealth levels for any MassHealth member who is enrolled in a Medicare prescription drug plan that charges the member a copayment in excess of the applicable MassHealth copayment.

SECTION 7. The secretary of health and human services, in consultation with the secretary of elder affairs and the director of Medicaid, shall supply pharmacists with clear, concise and consumer-friendly information to accompany 1-time, 30-day or 72-hour supplies of medication made to Medicare enrollees at state cost pursuant to sections 2 and 3. This information shall be in at least 2 languages, shall explain that MassHealth and Prescription Advantage shall no longer cover the prescribed medication, shall explain the actions the consumer may take to secure access to that medication or a clinically-appropriate alternative and shall include appropriate toll-free numbers to call for more information.

SECTION 8. Section 2 shall take effect on January 1, 2006.

Approved December 30, 2005.

Chapter 176. AN ACT EXTENDING SIMULCASTING FOR THE HORSE AND GREYHOUND RACING INDUSTRY IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to extend forthwith the provisions governing simulcasting and to provide certain other relief to the racing industry, 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 fourth paragraph of section 64 of chapter 10 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the last sentence.

SECTION 2. The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby amended by inserting after the word "inclusive", inserted by section 29 of chapter 139 of the acts of 2001, the following words:- , and until March 31, 2006.

SECTION 3. The last paragraph of said section 12A of said chapter 494 is hereby amended by striking out the words "December 31, 2005", inserted by section 30 of said chapter 139, and inserting in place thereof the following words:- March 31, 2006.

SECTION 4. The introductory paragraph of section 13 of said chapter 494 is hereby amended by inserting after the word "inclusive", inserted by section 31 of said chapter 139, the following words:- , and until March 31, 2006.

SECTION 5. Section 15 of said chapter 494 is hereby amended by inserting after the word "inclusive", inserted by section 32 of said chapter 139, the following words:- , and

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until March 31, 2006.

SECTION 6. The first paragraph of section 9 of chapter 277 of the acts of 1986 is hereby amended by inserting after the word "inclusive", inserted by section 33 of said chapter 139, the following words:- , and until March 31, 2006.

SECTION 7. The first sentence of the first paragraph of section 3 of chapter 114 of the acts of 1991 is hereby amended by inserting after the word "inclusive", inserted by section 34 of said chapter 139, the following words:- , and until March 31, 2006.

SECTION 8. The last paragraph of said section 3 of said chapter 114 is hereby amended by striking out the words "December 31, 2005", inserted by section 35 of said chapter 139, and inserting in place thereof the following words:- March 31, 2006.

SECTION 9. The first paragraph of section 4 of said chapter 114 is hereby amended by inserting after the word "inclusive", inserted by section 36 of said chapter 139, the following words:- , and until March 31, 2006.

SECTION 10. The last paragraph of said section 4 of said chapter 114 is hereby amended by striking out the words "December 31, 2005", inserted by section 37 of said chapter 139, and inserting in place thereof the following words:- March 31, 2006.

SECTION 11. The first paragraph of section 5 of said chapter 114 is hereby amended by inserting after the word "inclusive", inserted by section 38 of said chapter 139, the following words:- , and until March 31, 2006.

SECTION 12. Section 13 of chapter 101 of the acts of 1992 is hereby amended by striking out the words "December 31, 2005", inserted by section 39 of said chapter 139, and inserting in place thereof the following words:- March 31, 2006.

SECTION 13. Section 45 of said chapter 139 is hereby amended by striking out, in line 1, the words "December 31, 2005" and inserting in place thereof the following words:- March 31, 2006.

Approved December 30, 2005.

Chapter 177. AN ACT AUTHORIZING THE TOWN OF MANSFIELD TO ESTABLISH AN AFFORDABLE HOUSING TRUST FUND.

Be it enacted, etc., as follows:

SECTION 1. The town of Mansfield may establish a separate fund to be known as the Affordable Housing Trust Fund for the purpose of creating or preserving affordable housing by (a) the town of Mansfield or the Mansfield Housing Authority, (b) the Mansfield Housing Corporation or a housing trust, community development corporation, non-profit housing development corporation, or similar entity created under the laws of the commonwealth for the purpose of creating, maintaining or operating affordable housing, or (c) an applicant for affordable housing funds to the United States Department of Housing and

Urban Development or the department of housing and community development, subject to the subsequent approval of funding by that agency. Expenditures from the Affordable Housing Trust Fund shall be authorized by a majority vote of the board of selectmen, in consultation with the Mansfield Housing Partnership.

SECTION 2. All the expenditures from the Affordable Housing Trust Fund shall be used for low or moderate income housing as defined in section 20 of chapter 40B of the General Laws. The fund may be used to:-

- (a) purchase and improve land for low or moderate income housing;
- (b) acquire, rehabilitate or redevelop existing dwelling units for purchase or rental by low or moderate income homebuyers or tenants;
- (c) acquire, redevelop or convert existing nonresidential structures for low or moderate income housing;
- (d) develop and construct new dwelling units for purchase or rental by low and moderate income housing purchasers or tenants;
- (e) purchase rights of first refusal to acquire existing dwelling units for sale or rental to low or moderate income households;
- (f) provide grants, low-interest loans or deferred payment loans to assist low or moderate income homebuyers to purchase a home in the town of Mansfield; and
- (g) redevelop and convert municipal, school or other public buildings for low or moderate income housing.

Expenditures shall follow an allocation plan submitted by the board of selectmen annually to the town of Mansfield at the annual town meeting and approved by town meeting. The allocation plan may be amended by the town meeting at any special town meeting upon a favorable recommendation from the board of selectmen. The board of selectmen may request the advice of the Mansfield Housing Partnership, the planning board and others in developing any allocation plan. The allocation plan shall be a general plan of how funds will be expended during the next fiscal year. It shall also include 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 allocation plan and approved by a majority vote of the board of selectmen.

SECTION 3. As a means of providing available assets for the Affordable Housing Trust Fund, all monies received by the town through the following means shall be paid over to and become a part of the fund for the purposes set forth in this act:-

- (a) Cash payments made by developers to the town under section 6 of the Mansfield zoning by-law.
- (b) Funds authorized by town meeting for community housing purposes under chapter 44B of the General Laws, if the town votes to accept sections 3 to 7, inclusive, of said chapter 44B.
- (c) Gifts, grants, donations, contributions or other cash payments made to and accepted by the town for the purpose of providing low or moderate income housing.

(d) Any other source of revenue determined by town meeting, as allowed by law.

SECTION 4. Real property interests purchased or conveyed by the town of Mansfield under this act shall be subject to section 16 of chapter 30B of the General Laws, unless exempt under section 1 of said chapter 30B or under any other laws of the commonwealth.

The board of selectmen may convey, through sale, lease or transfer, real property purchased under this act provided that an affordable housing use restriction under sections 26, 31, 32 and 33 of chapter 184 of the General Laws is executed with or on behalf of the purchaser or owner of the property and recorded at the registry of deeds. The term of the affordable housing use restriction shall be the maximum allowed by law unless a lesser term is authorized in the allocation plan approved by town meeting. Real property conveyed through sale, lease or transfer to a for-profit or non-profit developer to provide low or moderate income rental housing shall be subject to an affordable housing regulatory agreement executed with or on behalf of the developer and the department of housing and community development.

SECTION 5. The town treasurer of the town of Mansfield shall be the custodian of the Affordable Housing Trust Fund and shall invest the monies 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 January 5, 2006.

Chapter 178. AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF EAST BRIDGEWATER.

Be it enacted, etc., as follows:

SECTION 1. There shall be in the town of East Bridgewater a department of public works, in this act called the department, which shall be under the supervision and control of the board of selectmen, in this act called the board. The department shall be organized in the following divisions: highway and land management; solid waste and recycling; water; and such other divisions as the town may determine from time to time.

SECTION 2. The department shall have all the powers, functions, duties and responsibilities now vested by any general law, special law or by-law in, or exercised by, the following: departments, boards, commissions and offices: highway surveyor; highway department; tree warden; tree and land management department; superintendent of pest control; board of water commissioners; water department; overseer of solid waste and recycling; and parks commissioners. The highway surveyor, office of highway surveyor, the tree warden, the office of tree warden, the board of water commissioners, the board of parks commissioners, the office of superintendent of pest management and the office of overseer

of solid waste are hereby abolished. No existing contract or liability shall be affected by the abolishment, but the department shall, in all respects, be the lawful successor of the boards, departments and offices so abolished.

SECTION 3. The department shall have additional powers, duties and responsibilities as the town may, from time to time, provide by by-law or appropriation including, but not limited to, maintenance of town owned motor vehicles, maintenance of town and school buildings, exclusive of janitorial services, wastewater treatment and sewers, and engineering, any other law to the contrary notwithstanding.

SECTION 4. The board shall determine the qualifications of a director of public works and, subject to appropriation, fix the compensation of the director. The board may appoint the director for a term not to exceed 3 years and may establish a contract of employment with the director. The director shall exercise and perform under the supervision and direction of the board the powers, rights and duties which have been transferred to the department and as the board may, from time to time, designate. The board may remove the director when in its judgment the public interest so requires. The director shall have authority for carrying out the policies of the board and over the operations of the department. Subject to the approval of the board and following a public hearing before the board, the director may fix the rates, charges and fees considered necessary. The director shall be the appointing authority for the department and may hire such staff and assistants considered necessary, subject to appropriation.

SECTION 5. All persons employed by or under the supervision of the offices, boards and commissions abolished or affected by this act, other than those persons holding an elected position abolished in section 2, shall, upon the effective date of this act, be transferred to the department. The transfers of employees shall be made without loss of pay and without loss of retirement or pension rights, or any other privileges under any provision of law or by-law as a result of this act.

SECTION 6. Upon the effective date of this act, all records, offices, property, equipment and facilities owned by the town of East Bridgewater and under the control of the offices, boards, or commissions abolished by this act shall be transferred to and under the control and direction of the department.

SECTION 7. This act shall take effect on July 1, 2006.

Approved January 5, 2006.

Chapter 179. AN ACT RELATIVE TO TOWN MEETINGS IN THE TOWN OF NORTH READING.

Be it enacted, etc., as follows:

SECTION 1. Chapter 2 of the charter of the town of North Reading which is on file

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in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 2-4-1 and inserting in place thereof the following section:-

Section 2-4-1 The town meeting shall meet regularly on the first available Monday in April not in conflict with a religious or legal holiday to consider and adopt an annual operating and capital budget, and to act on other financial matters, as well as to consider and act upon such other business as may properly come before the meeting; and on the first available Monday in October not in conflict with a religious or legal holiday to consider and act on matters of planning, zoning, subdivision control, building codes, and all other matters of a by-law nature, as well as to consider and act upon such other business as may properly come before the meeting, including financial matters; said dates for the April and October town meetings shall be set by the selectmen at a public hearing held during a regularly scheduled meeting of the board annually in January.

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

Approved January 5, 2006.

Chapter 180. AN ACT RELATIVE TO AUTOMATIC AMUSEMENT DEVICES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to exempt forthwith automatic amusement devices from certain requirements, 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 177A of chapter 140 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following subsection:-

(9) Sections 2 to 4, inclusive, of chapter 136 shall not apply to automatic amusement devices licensed under this section.

SECTION 2. This act shall take effect as of December 31, 2005.

Approved January 5, 2006.

Chapter 181. AN ACT ESTABLISHING A REVOLVING FUND IN THE TOWN OF SUDBURY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town

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of Sudbury may establish a revolving fund under section 53E ½ of chapter 44 of the General Laws into which all receipts from the rental of town-owned houses shall be deposited. The town manager shall use the fund for expenditures related to these houses in connection with the historic value and conservation program. The amount to be expended from this fund shall not exceed \$40,000 per fiscal year.

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

Approved January 5, 2006.

Chapter 182. AN ACT RELATIVE TO THE SALARY OF THE MAYOR OF THE CITY OF LAWRENCE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding subsection (c) of section 4.1 of the charter of the city of Lawrence and section 2.12.010 of the ordinances of the city of Lawrence, the salary of the mayor shall be \$100,000 per year.

SECTION 2. This act shall take effect as of January 1, 2006.

Approved January 5, 2006.

Chapter 183. 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 2005 may be approved upon renewal, notwithstanding that less than 35 per cent of its members are insured during calendar year 2006.

Approved January 5, 2006.

Chapter 184. AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF WEST NEWBURY.

Be it enacted, etc., as follows:

SECTION 1. There shall be in the town of West Newbury a department of public works under the jurisdiction of the board of selectmen. The department shall have charge of and responsibility for the management of public works operations of the town not assigned to other departments of the town, including, but not limited to, the following: highway, park and recreation construction and maintenance; tree and moth; building and grounds maintenance at municipal buildings, excluding the school department but including the GAR memorial library; and other related construction and operations assigned from time to time by the board of selectmen when considered necessary or desirable.

The board of selectmen may make all policy decisions relating to the department of public works except those reserved to the trustees of the GAR memorial library and the park and recreation commission, respectively.

SECTION 2. The board of selectmen shall appoint a director of public works, who shall recommend to the board of selectmen all employees of the department of public works. The compensation of the employees shall be set in the same manner as for other employees of the town, except as provided in section 5.

SECTION 3. The director of public works shall supervise and direct the operations and employees of the department of public works. The director of public works shall be especially qualified by education, training, and experience to perform the duties of the office and shall have such other qualifications as the town may from time to time provide. While employed by the town, the director of public works shall hold no elective office, nor engage in any other business or occupation, relating to public works unless approved in advance by the board of selectmen. Nothing in this section shall prevent the director of public works from serving on special ad hoc committees in order to represent the department of public works.

SECTION 4. On the effective date of this act, the appointed position of highway superintendent, tree warden, and moth superintendent in the town shall be abolished, and its powers, duties, responsibilities, and compensation shall be transferred to the director of public works.

SECTION 5. A person in the regular permanent full time or part time service or employment of the town shall not forfeit rate of compensation, grade, step, or time of service on account of the establishment of the department of public works. Each such person shall be retained in a capacity as similar to the person's former capacity as is practical. A collective bargaining agreement, contract, or liability in force on the effective date of this act shall not be affected by this act.

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

Approved January 5, 2006.

Chapter 185. AN ACT RELATIVE TO THE BOARD OF HEALTH IN THE TOWN OF NORTH ANDOVER.

Be it enacted, etc., as follows:

Section 7-8-1 of chapter 7 of the charter for the town of North Andover is hereby amended by inserting after the word "members", in line 1, the following words:- , one of whom shall be a licensed physician in the commonwealth,.

Approved January 5, 2006.

Chapter 186. AN ACT AUTHORIZING CERTAIN APPROPRIATIONS FROM THE CAPITAL PROJECTS FUND IN THE TOWN OF BRIDGEWATER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 3 of chapter 22 of the acts of 1997, the town of Bridgewater may appropriate monies from the Capital Projects Fund of up to \$265,000 for the purpose of paying for the town of Bridgewater's share of the rentals of modular classrooms at the Bridgewater-Raynham regional high school and M.G. Williams middle school, together with rental of the St. Thomas Aquinas Parish Center; but any appropriation for this purpose from either principal or accumulated interest shall require a two-thirds vote.

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

Approved January 5, 2006.

Chapter 187. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF DIGHTON AS THE LANCE CORPORAL JOHN J. VAN GYZEN IV MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge located on Somerset avenue over the Segreganset river in the town of Dighton shall be designated and known as the Lance Corporal John J. Van Gyzen IV Memorial Bridge, in memory of John J. Van Gyzen IV who was killed in action in Iraq. The department of highways shall erect suitable markers bearing said designation in compliance with the standards of said department.

Approved January 5, 2006.

Chapter 188. AN ACT RELATIVE TO THE BOARD OF SELECTMEN OF THE TOWN OF UPTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, a person employed 20 hours or more per week by the town of Upton shall not be eligible to hold the office of selectman of the town of Upton while so employed. Any person so employed who holds the office of selectman on the effective date of this act may serve the remainder of his term but shall be ineligible for re-election while so employed.

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

Approved January 5, 2006.

Chapter 189. AN ACT ESTABLISHING A MAYOR/TOWN COUNCIL FOR THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

ARTICLE 1

INCORPORATION; SHORT TITLE; DEFINITIONS

SECTION 1-1: INCORPORATION

The inhabitants of the town of Braintree, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Braintree."

SECTION 1-2: SHORT TITLE

This instrument shall be known and may be cited as the Braintree Charter ("Charter").

SECTION 1-3: DIVISION OF POWERS

The administration of the fiscal, prudential and municipal affairs of Braintree, with the government thereof, shall be vested in an executive/administrative branch headed by a mayor and a legislative branch to consist of a town council. The legislative branch shall never exercise any executive/administrative power, and the executive/administrative branch shall never exercise any legislative power.

SECTION 1-4: POWERS OF THE TOWN

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of the commonwealth, it is the intention and the purpose of the voters of Braintree through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated in this act.

SECTION 1-5: CONSTRUCTION

The powers of the town of Braintree under this charter are to be construed liberally in favor of the town, and the specific mention of any particular power is not intended to limit

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the general powers of the town as stated in section 1-4.

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the constitution or general laws of the commonwealth, Braintree may exercise any of its powers or perform any of its functions, and may participate in their financing, jointly or in cooperation, by contract or otherwise, with the commonwealth or any agency or political subdivision of the commonwealth, or with the United States government or any of its agencies.

SECTION 1-7: DEFINITIONS

Unless another meaning is apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

- (a) "Charter", this charter and any adopted amendments to it.
- (b) "Emergency", a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.
- (c) "Full council, full multiple-member body", the entire authorized complement of the town council, school committee or other multiple-member body notwithstanding any vacancy which might exist.
- (d) "general laws", laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of 2 or more cities and towns of which Braintree is a member.
- (e) "General Laws", the General Laws of the commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.
- (f) "Initiative measure", a measure proposed by the voters through the initiative process provided under this charter.
- (g) "Local newspaper", a newspaper of general circulation within Braintree, with either a weekly or daily circulation.
- (h) "Majority vote", when used in connection with a meeting of a multiple-member body shall mean a majority of those present and voting, unless another provision is made by ordinance, by law, or by its own rules.
- (i) "Measure", any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted by the town council or the school committee.
- (j) "Multiple-member body", any board, commission, committee, sub-committee or other body consisting of 2 or more persons whether elected, appointed or otherwise constituted, but not including the town council or the school committee.
- (k) "Organization or reorganization plan", a plan submitted by the mayor to the town council which proposes a change in the organization of the administrative structure of the town government, or a change in the way in which a municipal service, or services are delivered.
- (l) "Quorum", a majority of all members of a multiple-member body unless some other number is required by law or by ordinance.

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(m) "Referendum measure", a measure adopted by the town council or the school committee that is protested under the referendum procedures of this charter.

(n) "Town", the town of Braintree.

(o) "Town agency", any multiple-member body, any department, division or office of the town of Braintree.

(p) "Town bulletin boards", the bulletin board in the town hall on which the town clerk posts official notices of meetings and upon which other official town notices are posted, and the bulletin boards at any other locations that may be designated town bulletin boards by the town council.

(q) "Town officer", when used without further qualification or description, a person having charge of an office, or department as defined in section 5, who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the town.

(r) "Voters", registered voters of the town of Braintree.

ARTICLE 2

LEGISLATIVE BRANCH

SECTION 2-1: COMPOSITION, TERM OF OFFICE

(a) Composition - There shall be a town council of 9 members which shall exercise the legislative powers of the town. Three of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Six of these members, to be known as district councilors, shall be nominated and elected by and from the voters of each district, 1 district councilor to be elected from each of the 6 districts into which the town is divided, under section 7-5.

(b) Term of Office - The term of office for all town councilors shall be for 2 years, beginning on the first business day of January in the year following their election, and until their successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A district councilor shall at the time of election be a voter of the district from which elected, but, if any district councilor shall during the first 16 months of the term of office remove to another district in the town that office shall be considered vacant and the balance of the unexpired term shall be filled in the manner provided in section 2-11. If the removal occurs after the first 16 months of the term of office, the councilor may continue to serve for the balance of the term for which elected. If a councilor-at-large or a district councilor removes from the town during the term for which elected, the office shall be considered vacant and filled in the manner provided in section 2-11.

SECTION 2-2: COUNCIL PRESIDENT

(a) Election and Term - As soon as practicable after the councilors-elect have been qualified following each regular town election, as provided in section 8-10, the members of the town council shall elect from among its members a council president who shall serve during the current term of office.

(b) Powers and Duties - The council president shall preside at all meetings of the town council, regulate its proceedings and shall decide all questions of order.

The council president shall appoint all members of all committees of the town council, whether special or standing. The council president shall have the same powers to vote upon all measures coming before the town council as any other member of the town council. The council president shall perform any other duties consistent with the office that may be provided by charter, by ordinance or by other vote of the town council.

(c) Council Vice-President - The members of the town council shall also elect from among its members a council vice-president who shall serve as acting president during the temporary absence or disability of the council president during the current term of office. The powers of an acting council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of temporary absence or disability.

SECTION 2-3: PROHIBITIONS

(a) Holding Other Town Office or Position - No member of the town council shall hold any other town office or town employment for which a salary or other emolument is payable from the town treasury. No former member of the town council shall hold any compensated appointed town office or appointed town employment until 1 year after the date on which the former member's service on the town council has terminated.

(b) Interference with Administration - Except for the purpose of inquiries and investigations under section 2-7, the town council and its members shall deal with the officers and employees serving under the mayor, solely through the mayor, and neither the town council nor any member of the town council shall give orders or directions to any such officer or employee, either publicly or privately.

SECTION 2-4: COMPENSATION, EXPENSES

(a) Salary - The members of the town council shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing the salary of town councilors shall be effective unless it shall have been adopted during the first 18 months of the term for which town councilors are elected and unless it provides that the salary increase is to take effect upon the organization of the town government following the next municipal election.

(b) Expenses - Subject to appropriation and to prior authorization by the town council, the town council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

SECTION 2-5: GENERAL POWERS

Except as otherwise provided by general law or by this charter, all powers of the town shall be vested in the town council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the town by law.

SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) Exercise of Powers - Except as otherwise provided by general law or by this charter, the legislative powers of the town council may be exercised in a manner determined by it.

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(b) Quorum - The presence of a majority of members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter the affirmative vote of the majority of members shall be required to adopt any ordinance or appropriation order.

(c) Rules of Procedure - The town council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

(i) Regular meetings of the town council shall be held at a time and place fixed by ordinance.

(ii) Special meetings of the town council shall be held at the call of the council president, or, at the call of any 4 or more members, by written notice delivered in hand or to the place of residence of each member and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the council president shall be judge, this notice shall be delivered at least 48 weekday hours in advance of the time set for the meeting. A copy of the notice to members shall immediately be posted upon the town bulletin boards.

(iii) All sessions of the town council and of every committee or subcommittee of the council, shall at all times be open to the public and to the press, unless another provision is made by law.

(iv) A full, accurate, up-to-date account of the proceedings of the town council shall be kept, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting. The minutes of any executive session shall be made available as soon as their publication would not defeat the lawful purpose of the executive session.

(v) All business which is to come before the town council shall first be assigned to a standing committee for study and a report with its recommendations to the full council.

(vi) Any citizen of the town may be recognized and speak to any agenda item discussed at town council meetings.

SECTION 2-7: ACCESS TO INFORMATION

(a) In General - The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence. Upon completion of the investigation, a report shall be submitted to the town clerk and the report shall be printed in the annual town report.

(b) Town Officers, Members of Town Agencies, Employees - The town council may require any town officer, member of a town agency or town employee to appear before it to give any information that the town council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of that person and within the jurisdiction of the town council.

(c) Mayor - The town council may require the mayor to provide specific information to it on any matter within the jurisdiction of the town council. The town council may require the mayor to appear before it, in person, to respond to written questions made available to

the mayor at the time the request to attend is made to the mayor to provide specific information on the conduct of any aspect of the business of the town. The mayor may bring to this meeting any assistant, department director or other town officer or employee that the mayor may consider necessary to assist in responding to the questions posed by the town council.

(d) Notice - The town council shall give not less than 5 days notice to any person it may require to appear before it under this section. The notice shall include specific questions on which the town council seeks information, and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of that person.

SECTION 2-8: OFFICERS APPOINTED BY TOWN COUNCIL

(a) Town Auditor - The town council shall appoint a town auditor to serve for a term of 3 years and until a successor is chosen and qualified. The town auditor shall conduct, or cause to be conducted, financial and performance audits following government auditing standards as promulgated by the comptroller-general of the United States. The town auditor shall make periodic reports to the town council in such detail and with such frequency as the town council shall, by ordinance, by rule or by other vote, direct. All officials of the town shall cooperate with the town auditor in the performance of this audit function. The town auditor shall have such other powers and duties as may be provided by charter, by ordinance or by other vote of the town council.

(b) Town Clerk - The town council shall appoint a town clerk to serve for a term of 3 years and until a successor is chosen and qualified. The town clerk shall, with the approval of the town council, appoint an assistant town clerk to serve coterminously with the town clerk. The town clerk shall be the keeper of vital statistics for the town; the custodian of the town seal; shall administer the oath of office to all persons, elected or appointed, to any town office; shall issue such licenses and permits as are required by law to be issued by town clerks; and shall supervise and manage the conduct of all elections and all other matters relating to elections. The town clerk shall have any other powers and duties that are given to municipal clerks by general law, by this charter, by ordinance or by other vote of the town council.

(c) Clerk of the Council - The town council shall appoint a clerk of the council to serve for a term of 3 years and until a successor is chosen and qualified. The clerk of the council shall give notice of its meetings to its members and to the public, keep the journal of its proceedings and perform any other duties that may be provided by ordinance or by other vote of the town council.

(d) Salaries/Compensation - The officers appointed or elected by the town council shall receive the salaries or other compensation that may from time to time be provided for these offices, by ordinance.

(e) Removal/Suspension - Any person appointed or elected by the town council may be removed or suspended by the town council by the use of the procedures established in the

personnel ordinance for the removal of town employees appointed or elected by the town council.

SECTION 2-9: ORDINANCES AND OTHER MEASURES

(a) Emergency Ordinances - No ordinance shall be passed finally on the date it is introduced, except in case of emergency involving the health or safety of the people or their property. No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to the ordinance, separately voted upon and receiving the affirmative vote of 6 or more members of the town council. Emergency ordinances shall stand repealed on the sixty-first day following their adoption, unless an earlier date is specified in the measure, or unless a second emergency measure adopted under this section is passed extending it, or unless a measure passed under this section has extended it.

(b) Measures, In General - The town council may pass a measure through all of its stages at any 1 meeting, except proposed ordinances, appropriation orders and loan authorizations, if no member of the town council shall object; but, if any single member objects, a vote on the measure shall be postponed to the next meeting of the town council. On the first occasion that the question of adopting any measure is put to the town council, except an emergency measure as defined in section 2-9(a), if a single member objects to the taking of a vote, the vote shall be postponed until the next regular or special meeting of the town council. This procedure shall not be used more than once for any measure notwithstanding any amendments made to the original measure.

(c) Publication - Every proposed ordinance, appropriation order or loan authorization, except emergency ordinances under section 2-9(a), shall be published once in full in a local newspaper, and in any additional manner as may be provided by ordinance, at least 10 days before its final passage. After final passage it shall be posted on the town bulletin board and otherwise published as may be required by ordinance. Whenever a proposed ordinance or codification of ordinances or other measure would exceed in length 10 column inches of ordinary newspaper notice print, then, in lieu of publication in a local newspaper, the document may be published and made available at the office of the town clerk in booklet or pamphlet form at least 10 days before its final passage, and this publication shall be considered sufficient notice. Whenever the town council provides for publication in a booklet or pamphlet in lieu of the newspaper publication, it shall, at least 10 days before final passage, prepare and publish in a local newspaper a general summary of the proposed ordinance, or ordinances, and a notice stating the times and places at which copies of the booklet or pamphlet may be obtained by the public.

SECTION 2-10: COUNCIL REVIEW OF CERTAIN APPOINTMENTS

The mayor shall submit to the town council the name of each person the mayor desires to appoint to any town office, as a department director, or as a member of a multiple-member body, but not including any position that is subject to the civil service law. The town council shall refer each name that is submitted to it to a standing committee of the town council which shall investigate each candidate for appointment and may make a report, with recommendations, to the full town council not less than 7 nor more than 21 days after

the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the town council, to give any information relevant to the appointment that the committee, or the town council, may require.

Appointments made by the mayor shall become effective on the thirtieth day after the date on which notice of the proposed appointment was filed with the clerk of the council, unless 6 members of the town council shall within those 30 days vote to reject the appointment, or unless the town council has sooner voted to affirm the appointment. The question on rejection of any appointment made by the mayor shall not be subject to the procedure of charter objection provided in section 2-9 (b) of this charter.

SECTION 2-11: FILLING OF VACANCIES

(a) Councilor-at-Large - If a vacancy shall occur in the office of councilor-at-large during the first 18 months of the term for which councilors are elected, the vacancy shall be filled in descending order of votes received by the candidate for the office of councilor-at-large at the preceding regular town election who received the largest number of votes without being elected, if that person remains eligible and willing to serve and if that person received votes equal to at least 30 per cent of the vote total received by the person receiving the largest number of votes for the office of councilor-at-large at the regular town election. The town clerk shall certify this candidate to the office of councilor-at-large to serve for the balance of the then unexpired term. If a vacancy shall occur in the office of councilor-at-large during the last 6 months of the term for which councilors-at-large are elected, the vacancy shall be filled by the person at the regular town election who receives the highest number of votes for the office of councilor-at-large, and who is not then serving as a member of the town council. This person shall immediately be certified and shall serve for the last 2 months of the current term in addition to the term for which the person was elected.

(b) District Councilor - If a vacancy shall occur in the office of district councilor it shall be filled in the same manner as provided in section 2-11(a) for the office of councilor-at-large except that the list shall be of the candidates for the office of district councilor in the district in which the vacancy occurs. However, if there be no candidate on that list who remains eligible and willing to serve, the next highest ranking candidate from among the candidates for election to the council at large who is a resident of the district in which the vacancy exists, shall be certified and shall serve until the next regular town election if that candidate remains a resident of the district, is willing to serve as a district councilor and received votes in the district equal to at least 30 per cent of the vote total received by the person receiving the largest number of votes for the office of district councilor at the regular town election. The town clerk shall certify that candidate to the office of district councilor to serve for the balance of the then unexpired term.

(c) Filling of Vacancies By Town Council - Whenever a vacancy shall occur in the office of councilor-at-large or in that of district councilor and there is no available candidate to fill the vacancy in the manner provided in section 2-11 (a) or (b), the vacancy shall be filled by the remaining members of the town council.

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Persons elected to fill a vacancy by the town council shall serve only until the next regular town election.

ARTICLE 3

EXECUTIVE BRANCH

SECTION 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION

(a) Mayor, Qualifications - The chief executive officer of the town shall be a mayor, elected by and from the voters of the town at large. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full time to the office and shall not hold any other elective public office, nor shall the mayor be engaged in any other business, occupation or profession during the period of service as mayor.

(b) Term of Office - The term of office of the mayor shall be 4 years beginning on the first business day of January following the regular town election at which elected and until a successor is qualified.

(c) Compensation - The town council shall, by ordinance, establish an annual salary for the mayor. No ordinance altering the salary of the mayor shall be effective unless it shall have been adopted in the first 18 months of the term for which councilors are elected and unless it provides that the salary is to become effective in January of the year following the next regular town election.

(d) Expenses - Subject to appropriation, the mayor shall be entitled to reimbursement of the actual and necessary expenses incurred in the performance of the duties of the office.

(e) Prohibitions - The mayor shall hold no other town office or town employment for which a salary or other emolument is payable from the town treasury. No former mayor shall hold any compensated appointed town office or town employment until 1 year after the date on which the former mayor's term of office has terminated.

SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

The executive powers of the town shall be vested solely in the mayor, and may be exercised by the mayor either personally or through the several town agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, the laws, the ordinances and other orders for the government of the town to be enforced and shall cause a record of all official acts of the executive branch of the town government to be kept. The mayor shall exercise a general supervision and direction over all town agencies, unless otherwise provided by law, by the charter or by ordinance. Each town agency shall furnish to the mayor, immediately upon request, any information, materials or otherwise that the mayor may request and that the needs of the office of mayor and the interest of the town may require. The mayor shall supervise, direct and be responsible for the efficient administration of all town activities and functions placed under the control of the mayor by law, by this charter, by ordinance or otherwise. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the town of Braintree and for this purpose shall have authority, consistent with law, to call together for consultation, conference and discussion at reasonable times all persons serving the town, whether elected

directly by the voters, chosen by persons elected directly by the voters, or otherwise. The mayor shall be, by virtue of the office, a member of every multiple-member body of the town, with the exception of the school committee on which the mayor shall serve as the seventh voting member. The mayor shall have a right, as an ex officio member, to attend any meeting of any multiple-member body of the town, at any time, including executive sessions, to participate in the discussions, to make motions and to exercise every other right of a regular member of such body, but not including the right to vote.

SECTION 3-3: APPOINTMENTS BY THE MAYOR

The mayor shall appoint, subject to the review of the appointments by the town council under section 2-10, all town officers, department directors and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter, excepting only persons serving under the school committee, the Thayer Public Library Trustees, the Municipal Lighting Board, and persons serving under the town council. Except as may otherwise be required by the civil service law, appointments made by the mayor shall be for indefinite terms. All persons categorized as department directors shall, subject to the consent of the mayor, appoint all assistants, subordinates and other employees of the agency for which that person is responsible. All appointments and promotions made by the mayor shall be made on the basis of merit and fitness demonstrated by examination, past performance, or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

SECTION 3-4: REMOVAL OR SUSPENSION OF CERTAIN OFFICIALS

(a) Town Officers and Department Directors - The mayor may, in writing, remove or suspend any town officer appointed by the mayor by filing a written statement with the town clerk, setting forth in detail the specific reasons for the removal or suspension. A copy of the written statement shall be delivered in hand, or mailed by certified mail, postage prepaid, to the last known address of the town officer. The town officer may make a written reply by filing a reply statement with the town clerk, within 10 days after the date the statement of the mayor has been filed, but this reply shall have no effect upon the removal or suspension unless the mayor shall so determine. The decision of the mayor in suspending or removing a town officer shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for this suspension or removal solely in the mayor. The removal shall take effect 30 days after the date of filing in the office of the town clerk the notice of removal by the mayor.

(b) Other Town Employees - Unless some other procedure is specified in a collective bargaining agreement or by civil service law, a department director may suspend or remove any assistant, subordinate or other employee of the agency for which that person is responsible under the procedures established for suspension and removal in the personnel ordinance. The decision of the department director to suspend or remove any assistant, subordinate or other employee shall be subject to review by the mayor. A person for whom

a department director has determined a suspension or removal is appropriate may seek review of this determination by the mayor by filing a petition for review, in the office of the mayor, in writing, within 10 days after receipt of notice of this determination. The review by the mayor shall follow the procedures established for suspension and removal in the personnel ordinance. The decision of the mayor shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for this suspension or removal solely in the mayor. Nothing in this section shall be construed to be a bar to any other review that may be provided by law.

SECTION 3-5: TEMPORARY APPOINTMENTS TO TOWN OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a town office and the needs of the town require that the office be filled, the mayor may designate the head of another town agency or a town officer or town employee, or some other person to perform the duties of the office on a temporary basis until the position can be filled as otherwise provided by law, by the charter or by ordinance. The mayor shall file a certificate in substantially the following form, with the town clerk, whenever a person is designated under this section:

I designate (name of person) to perform the duties of the office of (designate office in which vacancy exists) on a temporary basis until the office can be filled by (here set out the regular procedure for filling the vacancy, or when the regular officer shall return). I certify that this person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the town of Braintree.

(signed)

Mayor

Persons serving as temporary officers under the authority of this section shall have only those powers of the office essential to the performance of the duties of the office during the period of this temporary appointment. No temporary appointment shall be for more than 90 days, and not more than one 30-day extension of a temporary appointment may be made when a permanent vacancy exists in the office.

SECTION 3-6: COMMUNICATIONS; SPECIAL MEETINGS

(a) Communications to the Town Council - Within 12 weeks after the start of each fiscal year the mayor shall submit to the town council and make available for public distribution a complete report on the financial and administrative activities of the town for the preceding fiscal year. The mayor shall, from time to time throughout the year, by written communications, recommend to the town council for its consideration such measures as, in the judgment of the mayor, the needs of the town require. The mayor shall, from time to time throughout the year by written communications, keep the town council fully informed of the financial and administrative condition of the town and shall specifically indicate in these reports any fiscal, financial or administrative problems of the town.

(b) Special Meetings of the Town Council - The mayor may at any time call a special meeting of the town council, for any purpose, by causing a notice of the meeting to be delivered in hand or to the place of business or residence of each member of the town council.

This notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least 48 weekday hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall immediately be posted on the town bulletin board.

SECTION 3-7: APPROVAL OF MAYOR, EXCEPTION (VETO)

Every order, ordinance, resolution or vote adopted or passed by the town council relative to the affairs of the town, except memorial resolutions, the selection of town officers by the town council and any matters relating to the internal affairs of the town council, shall be presented to the mayor for approval. If the mayor approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure the mayor shall return the measure, with the specific reason or reasons for such disapproval attached to it, in writing, to the town council. The town council shall enter the objections of the mayor on its records, and, not sooner than 10 days, nor later than 30 days after the date of its return to the town council, shall again consider the same measure. If the town council, notwithstanding the disapproval by the mayor, shall again pass the order, ordinance, resolution or vote by a two-thirds vote of the full council, it shall then be considered in force, notwithstanding the failure of the mayor to approve it. If the mayor has neither signed a measure nor returned it to the town council within 10 days after the date it was presented to the mayor, the measure shall be considered approved and in force.

SECTION 3-8: TEMPORARY ABSENCE OF THE MAYOR

(a) Acting Mayor - Whenever, by reason of sickness, absence from the town or other cause, the mayor, shall by his own decision, or by unanimous vote of the town council, be unable to perform the duties of the office for a period of more than 10 successive days, the president of the town council shall be the acting mayor. In the event of the absence or disability of the president of the town council, the vice president of the town council shall serve as acting mayor. In the event of the absence or disability of the vice president of the town council, the town council shall elect an acting mayor from its ranks.

The mayor shall, by a letter filed with the town council and a copy filed with the town clerk, designate a qualified town officer or town employee to serve as acting mayor during the temporary absence of the mayor for periods of 10 successive days or less and to serve only when the needs of the town require and only to the extent necessary under the then circumstances.

(b) Powers of Acting Mayor - The acting mayor shall have only those powers of the mayor that are essential to the conduct of the business of the town in an orderly and efficient manner and on which action may not be delayed. The acting mayor shall have no authority to make any permanent appointment or removal from town service unless the disability of the mayor shall extend beyond 60 days nor shall an acting mayor approve or disapprove of any measure adopted by the town council unless the time within which the mayor must act would expire before the return of the mayor. During any period in which any member of the town council is serving as acting mayor, that councilor shall not vote as a member of the town council.

SECTION 3-9: DELEGATION OF AUTHORITY BY MAYOR

The mayor may authorize any subordinate officer or employee of the town to exercise any power or perform any function or any duty which is assigned by this charter, or otherwise, to the mayor, and the mayor may rescind or revoke any authorizations previously made, but all acts performed under any delegation of authority during this period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate the power of appointment to town office or employment or to sign or return measures approved by the town council.

SECTION 3-10: VACANCY IN OFFICE OF MAYOR

(a) Special Election - If a vacancy in the office of mayor occurs during the first 3 years of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity, or otherwise, the town council shall immediately, in the manner provided in section 7-1, order a special election to be held not less than 95 nor more than 100 days after the date the vacancy is created, to fill that vacancy for the balance of the then unexpired term. If a regular town election is to be held within 120 days after the date the vacancy is created, a special election need not be held and the position shall be filled by vote at the regular town election.

(b) Council Election - If a vacancy in the office of mayor occurs in the fourth year of the term for which the mayor is elected, whether by reason of death, designation, removal from office, or otherwise, the president of the town council shall become the mayor. Upon the qualification of the president of the town council as the mayor, under this section, a vacancy shall exist in that council seat on the town council and shall be filled in the manner provided in section 2-11. A council president serving as mayor under this subsection shall not be subject to the restrictions contained in the third sentence of section 3-1(a), nor shall such person be entitled to have the words "candidate for re-election" printed against their name on the election ballot.

(c) Powers, Term of Office - The mayor elected under Section 3-10 (a) or (b) shall have all the powers of the mayor. A person elected under subsection (a), above, shall serve for the balance of the term unexpired at the time of election to the office. A person chosen under subsection (b), above, shall serve until the time of the next regular town election at which time the person elected to fill the office for the ensuing term of office shall serve, in addition, for the balance of the then unexpired term.

ARTICLE 4

SCHOOL DEPARTMENT

SECTION 4-1: SCHOOL COMMITTEE

(a) Composition, Term of Office - There shall be a school committee which shall consist of 7 members. Six of these members shall be nominated and elected by and from the voters of the town at large. The mayor shall serve, by virtue of office, as the seventh member of the school committee with all of the same powers and duties as the members elected by the voters as school committee members.

(b) Term of Office - The term of office for the 6 school committee members elected by the voters shall be for 4 years each, beginning on the first business day of January in the year following their election, and until their successors have been qualified. The terms of office shall be so arranged that 3 terms shall be filled at each regular town election.

(c) Eligibility - A school committee member shall at the time of election be a voter. If a school committee member removes from the town during the term for which elected, the office shall immediately be considered vacant and filled in the manner provided in section 4-6.

SECTION 4-2: SCHOOL COMMITTEE CHAIR

(a) Election and Term - As soon as practicable after the school committee members-elect have been qualified following each regular town election, under section 8-10, the school committee shall organize by electing 1 of the persons elected to the office of school committee member to serve as school committee chair and 1 of the persons elected to the office of school committee member to serve as school committee vice-chair until the next regular town election.

(b) Powers and Duties - The school committee chair shall preside at all meetings of the school committee, regulate its proceedings and shall decide all questions of order. The school committee chair shall appoint all members of all committees of the school committee, whether special or standing. The school committee chair shall have the same powers to vote upon all measures coming before the school committee as any other member of the school committee. The school committee chair shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the school committee.

SECTION 4-3: PROHIBITIONS

No member of the school committee shall hold any school department office for which a salary or other emolument is payable from the town treasury. No former member of the school committee shall hold any compensated school department office until 1 year after the date on which the member's service on the school committee has terminated.

SECTION 4-4: COMPENSATION, EXPENSES

(a) Salary - The members of the school committee shall not receive a salary for their services.

(b) Expenses - Subject to appropriation and to prior authorization by the school committee, the school committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

The school committee shall have all powers which are conferred on school committees by general laws and any additional powers and duties that may be provided by the charter, by ordinance, or otherwise and are not inconsistent with the grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

1) To appoint a superintendent of the schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and direc-

tives adopted by the school committee and, upon the recommendation of the superintendent, to establish and appoint assistant or associate superintendents as provided in section 59 of chapter 71 of the General Laws;

2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as may be considered necessary or desirable;

3) To adopt and to oversee the administration of an annual operating budget for the school department, subject to appropriation by the town council. The school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment. The school committee shall provide ordinary maintenance of all school buildings and grounds, but the town council may, by ordinance, provide for the establishment of a central municipal maintenance department which may, subject to the approval of the school committee, include maintenance of school buildings and grounds.

Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee to which the planning or construction of the new, remodeled or renovated school building is delegated.

SECTION 4-6: FILLING OF VACANCIES

(a) Runner-Up to Succeed to Office - If a vacancy shall occur in the office of school committee member, the vacancy shall be filled in descending order of votes received by the candidate for the office of school committee member at the preceding regular town election who received the largest number of votes without being elected, if that person remains eligible and willing to serve and if that person received votes equal to at least 60 per cent of the vote total received by the person receiving the largest number of votes for the office of school committee member at that election. The town clerk shall certify this candidate to the office of school committee member to serve for the balance of the then unexpired term, but, if the vacancy occurs during the first 18 months of the term for which school committee members are elected, the person so chosen shall serve only until the next regular town election at which election the remainder of the term shall be filled by the voters. Persons serving as school committee members, not elected by the voters, shall not be entitled to have the words "candidate for reelection" printed against their names on the ensuing election ballot.

If a vacancy shall occur in the office of school committee member during the last 6 months of the term, the vacancy shall be filled by the person at the regular town election who receives the highest number of votes for the office of school committee member and who is not then serving as a member of the school committee. That person shall immediately be certified and shall serve for the last 2 months of the concluding term in addition to the term for which that person was elected.

(b) Filling of Vacancies By School Committee - Whenever a vacancy shall occur in the office of school committee member and there is no available candidate to fill the vacancy in the manner provided in section 4-6 (a), the vacancy shall be filled by the remaining members of the school committee. Persons appointed to fill a vacancy by the school committee shall serve only until the next regular town election at which time the vacancy shall be filled by the voters and the person elected to fill the vacancy shall immediately be sworn and shall serve for the remainder of the unexpired term in addition to the term for which elected. Persons serving as school committee members, not elected by the voters, shall not be entitled to have the words "candidate for reelection" printed against their names on the ensuing election ballot.

ARTICLE 5

ADMINISTRATIVE ORGANIZATION

SECTION 5-1: ORGANIZATION OF TOWN AGENCIES

The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished only through an organization, or reorganization, plan filed by the mayor. No organization plan may originate with the town council. The mayor may, subject only to express prohibitions in a general law, or this charter, propose to reorganize, consolidate or abolish any town agency, in whole or in part; or establish any new town agencies that the mayor considers necessary, but no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless this charter specifically so provides. The mayor may from time to time prepare and submit to the town council plans of organization or reorganization that establish operating divisions for the orderly, efficient or convenient conduct of the business of the town. Every organization or reorganization plan submitted by the mayor under this provision shall contain a proposed ordinance which sets out, in detail, the amendments, insertions, revisions, repeals or otherwise of existing ordinances that may be necessary to accomplish the desired reorganization. The reorganization plan and proposed ordinance shall be accompanied by a message of the mayor that explains the benefits expected to ensue.

Whenever the mayor proposes such a plan, the town council shall give notice by publication in a local newspaper and hold 1 or more public hearings on the proposal. The notice in the local newspaper shall describe the scope of the proposal, the time and place at which the public hearing will be held, not less than 7 nor more than 14 days after the publication. An organization or reorganization plan shall become effective at the expiration of 60 days after the date the proposal is submitted to the town council unless the town council shall, by a majority vote, within that period vote to disapprove the plan. The town council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

SECTION 5-2: MERIT PRINCIPLE

All appointments and promotions of town officers and employees shall be made on the basis of merit and fitness demonstrated by examination, past performance, or by other evidence of competence and suitability. The town council may, in any ordinance establishing

a salary for an office or position of employment, establish minimum qualifications a candidate must possess in order to qualify for appointment to the office or position of employment.

SECTION 5-3: DEPARTMENT OF PUBLIC WORKS

(a) Establishment, Scope - There shall be a department of public works responsible for the performance of all public works related functions and activities of the town. The department of public works shall assume all of the duties and responsibilities related to public works activities which, before the adoption of the charter, were performed by or under the authority of the department of public works. The department of public works shall perform all of the public works related functions which are associated with the following boards, departments and offices or which are now or may from time to time by general or special law be vested in such boards, departments and offices: engineering department, highway department, cemetery department, water and sewer department, tree warden, park department and commissioners of parks and playgrounds, and the recycling committee, and it may have such additional powers, duties and responsibilities with respect to public works related functions and activities as may from time to time be provided by ordinance.

Notwithstanding any provision of this section to the contrary, the mayor may, under section 5-1, divide the powers and duties of the department of public works into 2 or more departments.

(b) Director of Public Works - The department of public works shall be under the direct control and supervision of a director of public works who shall be appointed by and who shall be responsible to the mayor. The director of public works shall serve for an indefinite term. The director of public works shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of public works shall be responsible for the supervision and coordination of all activities of the department of public works under state statutes, town ordinances, administrative code and rules and regulations.

SECTION 5-4: DEPARTMENT OF MUNICIPAL FINANCE

(a) Establishment, Scope - There shall be a department of municipal finance responsible for the performance of all of the fiscal and financial activities of the town. The department of municipal finance shall be responsible for the coordination of all of the duties and responsibilities related to fiscal and financial activities which are performed by or under the authority of the town accountant, the treasurer, the collector of taxes, the trust fund commissioners, the board of assessors, the finance committee, and the MIS department, and it may have such additional powers, duties and responsibilities with respect to fiscal and financial-related functions and activities as may from time to time be provided by ordinance.

(b) Director of Municipal Finance - The department of municipal finance shall be under the direct control and supervision of a director of municipal finance who shall be appointed by and who shall be responsible to the mayor. The director of municipal finance shall serve for an indefinite term. The director of municipal finance shall be a person especially fitted by education, experience and training to perform the duties of the office. The

director of municipal finance shall be responsible for the supervision and coordination of all activities of the department of municipal finance under state statutes, town ordinances, administrative code and rules and regulations. The director of municipal finance shall serve, ex officio, as the mayor may from time to time specify, as the treasurer, or the collector of taxes.

SECTION 5-5: DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

(a) Establishment, Scope - There shall be a department of planning and community development responsible for the coordination of all the planning and development-related activities of the town. The department of planning and community development shall be responsible for the coordination of all of the duties and responsibilities related to planning and development activities which are performed by or under the authority of the planning board, the conservation commission, the board of health, the community preservation committee, the economic development commission, the historic commission, and the zoning board of appeals, and it may have such additional powers, duties and responsibilities with respect to the coordination of planning and development-related functions and activities as may from time to time be provided by ordinance. Such ordinance may include in its scope the coordination of all land acquisition and land management proposals, economic development planning, community development block grants, the preparation of a comprehensive or master plan and maintenance of a centralized source of records, reports, statistical data and other planning and development-related materials.

(b) Director of Planning and Community Development - The department of planning and community development shall be under the direct control and supervision of a director of planning and community development who shall be appointed by and who shall be responsible to the mayor. The director of planning and community development shall serve for an indefinite term. The director of planning and community development shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of planning and community development shall be responsible for the supervision and coordination of all activities of the department of planning and community development in accordance with state statutes, town ordinances, and rules and regulations.

SECTION 5-6: DEPARTMENT OF HUMAN RESOURCES

(a) Establishment, Scope - There shall be a department of human resources which shall be responsible for all personnel and employee-related functions and activities of the town government and its administration. The department of human resources shall assume all of the duties and responsibilities related to human resources activities which, before the adoption of the charter, were performed by or under the authority of the board of selectmen, town accountant, the treasurer, the collector of taxes, the personnel board and department, the disabilities commission, the retirement board, veteran's affairs, and the heads of town agencies, and it may have such additional powers, duties and responsibilities with respect to human resources-related functions and activities as the town may from time to time provide by ordinance.

(b) Director of Human Resources - The department of human resources shall be headed by a director of human resources who shall be appointed by and responsible to the mayor. The director of human resources shall serve for an indefinite term. The director of human resources shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of human resources shall be responsible for the supervision and coordination of all activities of the department of human resources in accordance with state statutes, town ordinances, and rules and regulations.

SECTION 5-7: DEPARTMENT OF MUNICIPAL LICENSES AND INSPECTIONS

(a) Establishment, Scope - There shall be a department of municipal licenses and inspections which shall be responsible for the coordination of all licensing and inspection functions performed by any town officer, employee or agent. The department of municipal licenses and inspections shall be responsible for the coordination of all of the licensing and inspection functions conducted by the town, including but not limited to:

(i) those required under the zoning, wetlands protection, historic districts or any other town ordinance;

(ii) the provisions of the code of Massachusetts regulations relating to buildings, electrical wiring, plumbing, gas fitting, sanitation, wetlands, fire protection and fire safety, hazardous materials;

(iii) local regulations adopted by the board of health, conservation commission, historic commission, planning board or any other town agency, under any other title, performing any of the duties of any such multiple-member body;

(iv) every other local inspection as may be otherwise authorized or conducted, and

(v) the licensing functions as provided in chapter 138 and 140 of the General Laws and including responsibilities with respect to the coordination of municipal licensing and inspection functions as the town may from time to time provide, by ordinance, and which may include the maintenance of all records relating to inspections in a central place through a common index, a single application process which would indicate all inspections which might be necessary for a particular project and provide for a consolidated, coordinated review and processing of each such application.

(b) Director of Municipal Licenses and Inspections - The department of municipal licenses and inspections shall be under the direct control and supervision of a director of municipal licenses and inspections who shall be appointed by and who shall be responsible to the mayor. The director of municipal licenses and inspections shall serve for an indefinite term. The director of municipal licenses and inspections shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of municipal licenses and inspections shall be responsible for the supervision and coordination of all activities of the department of municipal licenses and inspections under state statutes, town ordinances, and rules and regulations. The director of municipal licenses and inspections shall, in addition to the coordination of responsibilities assigned by this provision, also perform the duties of building inspector or of any other position within the department as the mayor may from time to time specify.

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(c) Board of License Commissioners - There shall be a board of license commissioners, which shall have the following responsibilities:

(i) the power to issue licenses for innholders or common victualers;

(ii) the powers of a licensing board appointed under section 4 of chapter 138 of the General Laws;

(iii) the licensing authority for the purposes of chapter 138 and chapter 140 of the General Laws;

(iv) all of the other powers with respect to licenses which before the adoption of the charter were exercised by the board of selectmen;

(v) the granting of licenses relating to alcoholic beverages under chapter 138 of the General Laws, and

(vi) the granting of those licenses under chapter 140 of the General Laws which are not, by that chapter, placed within the jurisdiction of another municipal officer or agency, and it shall have all the powers and duties of a licensing authority under those chapters.

The town clerk, the building inspector, the director of public health, the fire chief and the chief of police (or persons performing similar duties under any other title) shall serve by virtue of their offices, and without additional compensation as the members of the board of license commissioners. The town clerk shall serve as chair of the board of license commissioners.

SECTION 5-8: Other Departments

The council on aging, the fair housing committee, the police department, the fire department and the town solicitor shall be responsible to the mayor.

ARTICLE 6

FINANCE AND FISCAL PROCEDURES

SECTION 6-1: FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

SECTION 6-2: SCHOOL COMMITTEE BUDGET

(a) Public Hearing - At least 21 days before the meeting at which the school committee is scheduled to vote on its final budget request, the school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget and the reasons for those changes. It shall further indicate the times and places at which complete copies of its draft proposed budget are available for examination by the public, and the date, time and place, not less than 7 nor more than 14 days following such publication, when a public hearing will be held by the school committee on the proposed budget. The school committee shall not take its final vote on its proposed budget until all persons who desire to be heard concerning the budget proposal have had a reasonable opportunity to be heard.

(b) Submission to Mayor - The proposed budget adopted by the school committee shall be submitted to the mayor at least 21 days before the date the mayor is required to submit a proposed town budget to the town council, to allow the mayor sufficient time within

which to consider the effect the school department's requested appropriation will have upon the total town operating budget the mayor is required to submit to the town council under this article. The action of the school committee in adopting the proposed budget, following the public hearing, shall be summarized and the results of a roll call vote taken on each amendment to the proposed budget as may be offered shall be recorded.

SECTION 6-3: SUBMISSION OF BUDGET AND BUDGET MESSAGE

Not later than 60 days before the start of the town's fiscal year, the mayor shall submit to the town council a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The mayor shall simultaneously provide for the publication in a local newspaper of a notice and a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for these changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget for the town are available for examination by the public.

SECTION 6-4: BUDGET MESSAGE

The budget message of the mayor shall explain the budget for all town agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current fiscal year in financial policies, expenditures and revenues together with the reasons for these changes, summarize the town's debt position and include other material that the mayor considers desirable, or that may be required by the provisions of a town ordinance.

SECTION 6-5: THE BUDGET

The proposed operating budget shall provide a complete financial plan for all town funds and town activities for the ensuing fiscal year. Except as may otherwise be required by general law, or this charter, it shall be in the form that the mayor considers desirable or that a town ordinance may require. In the presentation of the budget, the mayor shall use modern concepts of fiscal presentation so as to furnish an optimum level of information and the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and from all other sources and all proposed expenditures, including debt service, for the fiscal year. The budget shall be arranged to show the actual income and expenditures for the previous fiscal year and the estimated income and expenditures for the current and ensuing fiscal years and shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency and position, in terms of work programs, and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each capital expenditure;
- (3) The relationship of each proposed capital expenditure to the capital improvement program required to be submitted under section 6-10; and

(4) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

SECTION 6-6: ACTION ON THE BUDGET

(a) Public Hearing - Immediately upon its receipt of the proposed operating budget, the town council shall provide for the publication in a local newspaper of a notice stating the time and place, not less than 7 nor more than 14 days following the publication, at which it will hold a public hearing on the proposed operating budget as submitted by the mayor. To enable the voters of Braintree to be as fully informed as possible on the items contained in the proposed budget and on the legislative activities of the town council, the public hearing on the mayor's proposed budget shall be held in the form of a town meeting. The council president shall preside at each such meeting.

(b) Review - The town council shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer with representatives of each agency in connection with its review and consideration. The town council may require the mayor, or any other town agency, to furnish such additional information as it may consider necessary to assist in its review and consideration of the proposed operating budget.

(c) Action by Town Council - The town council shall adopt the budget, with or without amendments, within 45 days after the day the proposed budget was received. In amending the budget, the town council may delete or decrease any programs or amounts except expenditures required by law, or for debt service, but, the town council shall have no authority to add programs or increase amounts. If the town council fails to take any action with respect to any item in the proposed budget within 45 days after the date of its receipt of the proposed budget, that amount shall, without any action by the town council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified.

SECTION 6-7: SUPPLEMENTARY BUDGETS, OTHER APPROPRIATIONS

Whenever the mayor shall submit to the town council a request for a new appropriation of any sum of money, either as a supplement to some item in the annual operating budget or for an item, or items, not included in the annual operating budget as adopted, the town council shall not act upon the request until it has (1) given notice by publication in a local newspaper of the request, and (2) held a public hearing concerning the request. The publication of the notice and the public hearing shall be in conformity with section 6-6 concerning the proposed annual operating budget.

SECTION 6-8: ALLOTMENTS

On or before August first of each year, or within 10 days after the approval by the town council and the mayor of the annual appropriation order for the fiscal year, whichever shall occur later, the town officials in charge of departments or agencies including the superintendent of schools for the school department, shall submit to the director of municipal finance, with a copy to the town clerk, in a form that the director of municipal finance may prescribe, an allotment schedule of the appropriations of all personnel categories included in the budget, indicating the amounts to be expended by the department or agency for those

purposes during each of the fiscal quarters of the fiscal year, or such shorter time periods as the mayor or director of municipal finance, may prescribe. Whenever the director of municipal finance determines that any department or agency including the school department, will exhaust or has exhausted its quarterly or shorter time period allotment and any amounts unexpended in previous periods, he shall give notice in writing to this effect to the department director, the mayor, the town solicitor, and the town clerk who shall immediately transmit the notice to the town council. Upon this determination and notice of it, the director of municipal finance shall provide these officers with additional reports on at least a monthly basis indicating the status of these accounts.

The mayor, within 7 days after receiving this notice, shall determine whether to waive or enforce the allotment. If the allotment for the period is waived or is not enforced, as provided above, the department or agency head shall reduce the subsequent period allotments appropriately. If the allotment for the period is enforced or not waived, thereafter the department shall terminate all personnel expenses for the remainder of the period. All actions, notices, and decisions provided for in this section shall be transmitted to the town council and the town clerk within 7 days. No personnel expenses earned or accrued, within any department, shall be charged to or paid for that department's or agency's allotment of a subsequent period without approval by the mayor, except for subsequently determined retroactive compensation adjustments, approval of a payroll for payment of wages, or salaried or other personnel expenses which expenditure in excess of the allotment shall be a violation of this section by the department or agency head, including the superintendent of schools and the school committee. If the continued payment of wages, salaries or other personnel expenses is not approved in a period where a department director has exhausted the period allotment or allotments as specified above, or, in any event, if a department has exceeded its appropriation for a fiscal year, the town shall have no obligation to pay the personnel cost or expense arising after the allotment or appropriation has been exhausted.

SECTION 6-9: PERSONAL LIABILITY FOR EXPENDITURES IN EXCESS OF APPROPRIATIONS

No official of the town of Braintree, except in the case of an emergency involving the health and safety of the people, shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the town in any contract for the future payment of money in excess of such appropriations. It is the intention of this section that section 31 of chapter 44 of the General Laws shall be fully adopted and strictly enforced. Any official who violates this section shall be personally liable to the town for any amounts so expended to the extent the town does not recover these amounts from the person to whom the sums were paid.

SECTION 6-10: CAPITAL IMPROVEMENT PROGRAM

The mayor shall submit a capital improvement program to the town council at least 120 days before the start of each fiscal year. The capital outlay program shall be based on material prepared by the capital planning committee established by ordinance. It shall include:

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- a clear and concise general summary of its contents;
- a list of all capital improvements proposed to be undertaken during the next ensuing 5 years, with supporting information as to the need for each capital improvement;
- cost estimates, methods of financing and recommended time schedules for each improvement; and,
- the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised by the mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

SECTION 6-11: INDEPENDENT AUDIT

The town council shall annually provide for an outside audit of the books and accounts of the town to be made by a certified public accountant, or a firm of certified public accountants, who have no personal interest, direct or indirect, in the fiscal affairs of the town or any of its officers. The mayor shall annually provide to the town council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the town council. The award of a contract to audit shall be made by the town council, on the recommendation of its budget/management committee on or before September fifteenth of each year. The budget/management committee shall coordinate the work of the individual or firm selected with the municipal officials. The report of the audit shall be filed in final form with the town council and the budget/management committee not later than March first in the year following its award.

ARTICLE 7

ELECTIONS AND ELECTION RELATED MATTERS

SECTION 7-1: TOWN ELECTIONS: GENERAL, PRELIMINARY

The regular town election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

A preliminary election for the purpose of nominating mayoral candidates shall be held on the third Tuesday in September in every other odd-numbered year, but the town clerk may, with the approval of the town council, reschedule this election to the fourth Tuesday to avoid a conflict with any civil or religious holiday. Whenever a special election to fill a vacancy in the office of mayor is to be held, a preliminary election shall be conducted 35 days preceding the date established for the special election.

SECTION 7-2: NON-PARTISAN ELECTIONS

All elections for town offices shall be non-partisan and election ballots shall be printed without any party mark, emblem, or other designation whatsoever.

SECTION 7-3: ELECTION

(a) Signature Requirements - The number of voter signatures required to place the name of a candidate on the official ballot to be used at an election shall be as follows:

(i) for the office of mayor, not less than 150 signatures, but at least 25 signatures must be certified from each district;

(ii) for the office of councilor-at-large or school committee member, not less than 150 signatures, but at least 25 signatures must be certified from each district;

(iii) for the office of district councilor, not less than 100 signatures, all of which shall be from the district from which the nomination is sought.

(b) Determination of Mayoral Candidates - The 2 persons receiving at the preliminary election the highest number of votes for nomination shall be the sole candidates whose names shall be printed on the official ballots to be used at the regular town election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If the preliminary election results in a tie vote:

(i) for the highest number of votes, the names of those candidates who tied will appear on the ballot;

(ii) for the second highest number of votes where no tie exists as described in 7-3(b)(i) above, the names of those tied will appear on the ballot even though the ballots will have a number of candidates exceeding twice the number to be elected.

(c) Condition Making Preliminary Unnecessary - If at the expiration of time for filing statements of mayoral candidates to be voted upon at any preliminary election, not more than 2 statements have been filed with the town clerk for the office of mayor, the candidates whose statements have been filed with the town clerk shall be considered to have been nominated to the office, and their names shall be voted upon for this office at the succeeding regular town election.

SECTION 7-4: BALLOT POSITION, REGULAR TOWN ELECTION

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the town clerk. The town clerk shall give public notice of the time and place of the drawing, and the drawing shall be open to the public.

SECTION 7-5: DISTRICTS

The territory of the town shall be divided into 6 districts so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well defined limits. Each such district shall be composed of voting precincts established in accordance with general laws. The town council shall from time to time, but at least once in each 10 years, review such districts to insure their uniformity in number of inhabitants.

SECTION 7-6: APPLICATION OF STATE GENERAL LAWS

Except as otherwise expressly provided in this charter and authorized by law, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, general and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

SECTION 7-7: CITIZEN INITIATIVE MEASURES

(a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative petition with the clerk of the council or the secretary of the school committee, as the case may be. The petition shall be addressed to the town council or to the school committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least 250 voters and at least 25 signatures must be certified from each district by the town clerk. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

(b) Referral to Town Solicitor - The clerk of the council or the secretary of the school committee, as the case may be, shall immediately following receipt of each proposed petition deliver a copy of the petition to town solicitor. The town solicitor shall, within 15 days after receipt of a copy of the petition, in writing, advise the town council or the school committee, as may be appropriate, whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the town council or the school committee. If the opinion of the town solicitor is that the measure is not in proper form, the reply shall state the reasons for this opinion in full. A copy of the opinion of the town solicitor shall also be mailed to the person designated as clerk of the petitioners committee, and any further petition shall be submitted under Section 7-7(a).

(c) Submission to Town Clerk - If the opinion of the town solicitor is that the petition is in a proper form, the town clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the proposed measure, as determined by the town solicitor, together with the names and addresses of the petitioners committee who signed the originating petition. Within 30 days after the date the blank forms are issued by the town clerk, the petitions shall be returned and filed with the town clerk signed by at least 10 per cent of the total number of voters as of the date of the most recent town election. Signatures to an initiative petition need not all be on 1 paper but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, with the endorsement on them of the name and residence address of the person designated as filing the petition. With each signature on the petition there shall also appear the street and number of the residence of each signer. Within 10 days after the filing of the petition the board of registrars of voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent town election. The town clerk shall attach to the petition a certificate showing the results of their examination and shall return the petition to the clerk of the council, or the secretary of the school committee, depending on how the petition is addressed. A copy of the board of registrars of voters certificate shall also be mailed to the person designated as clerk of the petitioners committee.

(d) Action on Petitions - Within 30 days after the date a petition has been returned

to the clerk of the council, or the secretary of the school committee, and after publication under section 2-9(c), the town council or the school committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered to be a rejection of the initiative measure. If the town council or the school committee fails to act with respect to any initiative measure that is presented to it within 30 days after the date it is returned to it, the measure shall be considered to have been rejected on the thirtieth day. If an initiative measure is rejected, the clerk of the council, or the secretary of the school committee, shall promptly give notice of that fact to the person designated as the clerk of the petitioners committee, by certified mail.

(e) Supplementary Petitions - Within 60 days after the date an initiative petition has been rejected a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to 5 per cent of the total number of voters as of the date of the most recent town election, and the signatures on the initial petition filed under subsection (c), above, and the signatures on the supplemental petition filed under this subsection, taken together, shall contain the signatures of at least 15 per cent of the total number of voters in the town and in each of the districts into which the town is divided for the purpose of elections. If the number of signatures to the supplemental petition is found to be sufficient by the town clerk, the town council shall call a special election to be held on a date fixed by it not less than 35 nor more than 90 days after the date the town council votes to call for the special election and shall submit the proposed measure, without alteration, to the voters for determination, but if any other town election is to be held within 120 days after the date of the certificate, the town council may omit the calling of the special election and cause the question to appear on the election ballot at the approaching election for determination by the voters.

(f) Publication - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than 7 nor more than 14 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the town clerk.

(g) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by an initiative petition, take effect?

(Here, insert a fair, concise summary prepared by the town solicitor.)

- YES

- NO

(h) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is

specified in the measure.

SECTION 7-8: CITIZEN REFERENDUM PROCEDURES

(a) Petition, Effect on Final Vote - If, within 21 days after the date on which the town council or the school committee has voted finally to approve of any measure, a petition signed by a number of voters equal to 15 per cent of the total number of voters as of the date of the most recent regular town election and addressed to the town council or to the school committee, as the case may be, protesting against the measure or any part of it is filed with the secretary of the school committee or clerk of the council, the effective date of the measure shall be temporarily suspended. The school committee or the town council shall immediately reconsider its vote on the measure or part of it, and, if the measure is not rescinded, the town council shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular town election, but pending such submission and determination the effect of the measure shall continue to be suspended.

(b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed a referendum petition and, insofar as applicable, section 7-7 shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" in said sections wherever it may occur and the word "referendum" shall be deemed to replace the word "initiative" wherever it may occur in those sections. The measure, or part thereof protested against, shall be null and void unless a majority of those voting on the question shall vote in favor of the measure or part thereof protested against at the election.

SECTION 7-9: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the referendum procedures:

- (1) proceedings relating to the internal organization or operation of the town council or the school committee;
- (2) an emergency measure adopted in conformity with the charter;
- (3) the town budget or the school committee budget as a whole;
- (4) revenue loan orders;
- (5) any appropriation for the payment of the town's debt or debt service;
- (6) an appropriation of funds to implement a collective bargaining agreement;
- (7) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- (8) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures;
- (9) any proceedings providing for the submission or referral to the voters at an election; and
- (10) memorial resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

SECTION 7-10: SUBMISSION OF OTHER MATTERS TO VOTERS

The town council may of its own motion, and shall at the request of the school committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular town election for adoption or rejection any measure in the same manner and with the same force and effect as is hereby provided for submission by petitions of voters.

SECTION 7-11: CONFLICTING PROVISIONS

If 2 or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

SECTION 7-12: RECALL ELECTIONS

(a) Application - Any person holding an elected town office may be recalled from that office by the voters under the procedures made available in this section.

(b) Recall Petition

(1) Office Elected by Voters at Large - Four hundred or more voters may file with the board of registrars of voters an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The signatures on this affidavit shall contain the names of at least 50 voters in each of the districts into which the town is divided for the purpose of elections.

(2) Office Elected by Voters by District - One hundred or more voters may file with the board of registrars of voters an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The signatures on this affidavit shall contain the names only of voters in the district from which the officer was elected.

(3) At Large, or by District - If the affidavit is found to be valid, the town clerk shall deliver to the first 10 persons named on the affidavit, petition blanks demanding said recall, printed forms of which shall be kept available. The blanks may be completed by printing or by typewriting; they shall be addressed to the town council; they shall contain the names and residence addresses of the 10 persons to whom they are issued and they shall contain the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; and they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the board of registrars of voters within 21 days after the date they are issued, signed by not less than 10 per cent of the total number of voters (of the district or of the town as is appropriate) as of the date of the regular town election. The signatures on these petitions shall contain the names and addresses of at least 10 per cent of the voters in each of the districts into which the town is divided for the purpose of elections. The sheets constituting a petition need not all be filed at the same time. For the purposes of this section, a petition shall be considered filed whenever the persons responsible for its filing notify the board of registrars of voters in writing, that the filing is complete. Before receiving such notice the board of registrars of voters may, but shall not be required to, certify signatures on the sheets already filed. The board of registrars of voters, shall within 10 days following the date the petition forms are filed certify the number of signatures on them which are the

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names of voters and the percentage that number represents of the total number of voters in each district as of the date of the regular town election.

(c) Recall Election - If the petitions are certified by the board of registrars of voters to contain a sufficient number of signatures, they shall immediately submit the petitions, with their certificate, to the town council. Upon receipt of the certified petition forms, the town council shall immediately give written notice to the officer whose recall is sought of the validity of the petitions. If the officer whose recall is sought does not resign the office within 5 days after delivery of the notice, or by its having been left at the last known place of residence, the town council after consultation with the town clerk shall order a special election to be held on a date no less than 35 nor more than 90 days after the date of its notice to the officer whose recall is sought.

(d) Ballot Question - Ballots used at the recall election shall state the proposition in substantially the following form: Shall (insert name of officer) be recalled from the office of (insert name of office held)?

- YES

- NO

(e) Officeholder - The person whose recall is sought shall continue to hold the office and to perform the duties until the recall election. If a majority of the votes cast on the question as stated above is in the affirmative, the officer shall be considered to be recalled, and the office shall be considered to be vacant upon the certification of the election results. If a majority of the votes cast on the question is in the negative, the person whose recall was sought shall continue in the office until the expiration of the term for which elected, but subject to recall as provided in section (f), below.

(f) Restriction on Recall Petition - No recall petition shall be filed against any officer until at least 6 months following the commencement of a term of office, nor, in the case of an officer subjected to a recall election and not recalled thereby, during the remainder of the current term of office. A recall election shall not be held if less than 6 months of the term of office of the person whose recall is sought remains at the time of the certification of the petition forms.

(g) Filling of Vacancy - If the office of mayor is declared vacant as the result of a recall election, the town council shall immediately call a special election to be held on a date fixed by it not less than 95 nor more than 100 days after the date of the recall election. The person elected at that special election shall serve for the balance of the unexpired term remaining at the time of election.

Vacancies in any other office shall be filled under section 2-11 and section 4-6. No person recalled from an office under the terms of this section shall be eligible to be a candidate to fill any vacancy created by that recall.

ARTICLE 8

GENERAL PROVISIONS

SECTION 8-1: CHARTER CHANGES

This charter may be replaced, revised or amended under any procedure made available under the Massachusetts constitution or by statute.

SECTION 8-2: SEVERABILITY

The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 8-3: SPECIFIC PROVISION TO PREVAIL

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

SECTION 8-4: RULES AND REGULATIONS

A copy of all rules and regulations adopted by any town agency shall be placed on file in the office of the town clerk and shall be available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any town agency shall become effective until 5 days after the date it is so filed.

SECTION 8-5: PERIODIC REVIEW OF CHARTER AND ORDINANCES

Not later than the first day of July, at 5-year intervals, in each year ending in a 5 or in a zero, the mayor and town council shall provide for a review to be made of the ordinances of the town for the purpose of preparing a proposed revision or recodification of them, without substantive change. This review shall be made by a special committee to consist of 9 members, 4 of these members shall be appointed by the town council president and 5 of the members shall be appointed by the mayor. At least 2 of the persons appointed by the town council president shall be members of the town council and the remaining members shall be voters of the town. The special committee shall file its report with the clerk of the council, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the town council agenda for action before the fifteenth day of June in that year and, if not so scheduled by the clerk of the council, the matter shall come before the town council for action at its next meeting held following the said fifteenth day of June, and no other business shall be in order until the report has been acted upon, by roll call vote.

The review of town ordinances shall be under the supervision of the town solicitor. A revision, recodification or republication of the ordinances shall be made at 5-year intervals. Copies of the revision, recodification or republication shall be made available to the public at a cost not to exceed the actual cost of such reproduction. In each year between such reenactments, an annual supplement shall be published which shall contain all ordinances and amendments to ordinances adopted in the preceding year.

Not later than the first day of July, at 10-year intervals, in each year ending in a 9, the mayor and town council shall provide for a review to be made of the charter. This review shall be made by a special committee to consist of 9 members, 4 of these members shall be appointed by the town council president and 5 of the members shall be appointed by the mayor. At least 2 of the persons appointed by the town council president shall be members

of the town council, and the remaining members shall be voters of the town. The special committee shall file its report with the clerk of the council, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the town council agenda for action before the fifteenth day of June in that year and, if not so scheduled by the clerk of the council, the matter shall come before the town council for action at its next meeting held after the said fifteenth day of June, and no other business shall be in order until the report has been acted upon, by roll call vote.

SECTION 8-6: UNIFORM PROCEDURES GOVERNING MULTIPLE MEMBER BODIES

(a) Meetings - All multiple-member bodies of the town, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places as they may, by their own rules prescribe, unless some other provision is made by ordinance or by law. Special meetings of any multiple-member body shall be held on the call of the chairman or by one-third of the members thereof by written notice delivered in hand or to the place of residence of each member at least 48 hours in advance of the time set, which shall contain notice of the subjects to be acted upon. A copy of the notice shall also be posted on the town bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple-member bodies shall at all times be open to the public and the media.

(b) Rules - Each multiple-member body shall determine its own rules and order of business unless another provision is made by ordinance or by law, and shall provide for keeping of the minutes of its proceedings. These rules shall be a public record and copies shall be placed on file in the office of the town clerk and in the Thayer Public Library.

(c) Voting - If requested by any member, any vote of any multiple-member body shall be taken by a call of the roll and the vote of each member shall be recorded in the meeting minutes, but if the vote is unanimous, only that fact need be recorded.

(d) Quorum - A majority of the members of a multiple-member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time. Unless some other provision is made by law, by ordinance or by the multiple-member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to adopt any vote representing an exercise of the powers of the multiple-member body.

SECTION 8-7: NUMBER AND GENDER

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender shall include the feminine gender.

SECTION 8-8: REFERENCES TO GENERAL LAWS

All references to General Laws contained in the charter refer to the General Laws of the commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to those chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted

subsequent to the adoption of this charter.

SECTION 8-9: COMPUTATION OF TIME

In computing time under this charter, the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included; when the period is 7 days or more, every day shall be counted.

SECTION 8-10: OATH OF OFFICE OF ELECTED OFFICIALS

Elected officials shall, on the first business day in January of each even-numbered year, meet and be sworn to the faithful discharge of their duties. The oath may be administered to the mayor by the town clerk, or by a judge of a court of record, or by a justice of the peace. The oath may be administered to other elected officials by the mayor, after the mayor has been duly sworn, or by any of the above-named officials. A certificate that said oath or oaths have been taken shall be entered in the meeting minutes of the town council.

In case of the absence of an elected official on the day the oath of office is administered, the oath may at any time thereafter be administered to that person. A certificate of each oath subsequently taken shall be entered in the meeting minutes of the town council.

After the oath has been administered to the councilors present, they shall organize by electing from among their number a person to serve as the president and a person to serve as the vice-president, as provided in section 2-2. If the town clerk is unable to preside during this election, the town council member senior in years of service on the town council shall preside during the election. If 2 or more members are equally senior in years of service on the town council, the member senior both in years of service and age shall preside. The president and vice-president shall be sworn by the town clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations.

After the oath has been administered to the school committee members present, they shall organize by electing from among their number a person to serve as the chair and a person to serve as the vice-chair, as provided in section 4-2. If the town clerk is unable to preside during this election, the member senior in years of service on the school committee shall preside during the election. If 2 or more members are equally senior in years of service on the school committee, the member senior both in years of service and age shall preside. The chair and the vice-chair shall be sworn by the town clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations.

SECTION 8-11: CERTIFICATE OF ELECTION OR APPOINTMENT

Every person who is elected, including those elected by the town council, or appointed to an office of the town shall receive a certificate of such election or appointment from the town clerk. Except as otherwise provided by law, every person who is elected, including those elected by the town council, or appointed to an office of the town, before performing any act under such appointment or election, shall take and subscribe to an oath

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to qualify to enter upon the duties of the office. A record of this oath shall be kept by the town clerk.

SECTION 8-12: LIMITATION ON OFFICE HOLDING

No person shall simultaneously hold more than 1 full-time town office or position of employment. Any hours worked in any part-time position shall not be the same or otherwise conflict with the hours worked in a full-time position.

SECTION 8-13: ENFORCEMENT OF CHARTER PROVISIONS

It shall be the duty of the mayor to see that the provisions of the charter are faithfully followed and complied with by all town agencies and town employees.

Whenever it appears to the mayor that any town agency or town employee is failing to follow any provision of this charter, the mayor shall, in writing, cause notice to be given to that agency or employee directing compliance with the charter. If it shall appear to the town council that the mayor personally is not following the provisions of the charter, it shall, by resolution, direct the attention of the mayor to those areas in which it believes that there is a failure to comply with charter provisions. The procedures made available in chapter 231A of the General Laws may be used to determine the rights, duties, status or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.

SECTION 8-14: ANNUAL REPORT OF THE TOWN

An annual report which contains a general summary of the activities of all town agencies shall be published within 90 days after the close of each fiscal year. The annual report shall contain reports by the mayor, the town council, the director of municipal finance, the treasurer, the school committee and such other town agencies as may be required by ordinance to provide reports. The annual report shall be made available for inspection at the office of the town clerk, at the Thayer Public Library, and on the official town website.

SECTION 8-15: NOTICE OF VACANCIES

Whenever a vacancy occurs, or is about to occur, in any town office or town employment, except for positions covered by the civil service law, the appointing authority shall immediately cause public notice of the vacancy, or impending vacancy, to be posted on the town bulletin board for a period of not less than 14 days. Any person who desires to be considered for appointment to the office or employment may file with the appointing authority a statement in clear and specific terms setting forth the person's qualifications for the position. No permanent appointment to fill a vacancy in an office or employment shall be effective until at least 14 days have elapsed following the posting, and until all persons who have filed statements in application have been considered.

ARTICLE 9

TRANSITIONAL PROVISIONS

SECTION 9-1: CONTINUATION OF EXISTING LAWS

All general laws, special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to Braintree that are in force when this charter takes effect, and

not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitation.

In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

SECTION 9-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All town agencies shall continue to perform their duties until re-elected, reappointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another town agency.

SECTION 9-3: TRANSFER OF RECORDS AND PROPERTY

All records, property and equipment whatsoever of any town agency, or part thereof, the powers and duties of which are assigned in whole or in part to another town agency, shall be transferred immediately to that agency.

SECTION 9-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the town before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter.

SECTION 9-5: TIME OF TAKING EFFECT

This charter shall be submitted to the voters of the town of Braintree for acceptance at the next 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 entitled 'An Act to establish a mayor/town council for the town of Braintree' be accepted." If a majority of votes cast in answer to this question are in the affirmative, this Charter shall then take effect in accordance with the following schedule; but if a majority of votes cast in answer to both this question and the question required by chapter 113 of the acts of 2005 is in the affirmative, then only the act corresponding to the question that receives the largest number of affirmative votes shall take effect.

(a) All town officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the ratification by the voters of the Charter, but, being mindful that on the first business day in January of the year following the first regular town election held under the charter, the executive authority will thereafter be vested in a mayor and the legislative authority shall be vested in a town council.

(b) The first election of officers under this charter shall be held on the first Tuesday

following the first Monday in November 2007 for the purpose of electing a mayor, 9 members of town council, 6 members of the school committee, 6 members of the Thayer Library Trustees, and 3 members of the Municipal Lighting Board. A preliminary election for the purpose of nominating the mayoral candidates to be elected at this election shall be held on the sixth Tuesday preceding the election. So much of this charter shall become effective as is necessary to conduct these elections. The board of selectmen shall issue the warrants for the elections. The term of all existing members of the school committee, the Braintree Electric Light Board, and the Thayer Library trustees shall expire at the end of the year 2007.

At the regular town election held in November 2007, 6 members shall be elected to the school committee. The 3 candidates receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the fourth, fifth and sixth highest number of votes, shall be declared elected for a 2-year term; thereafter, at each regular town election 3 candidates shall be elected to the office of school committee member for a term of 4 years.

At the regular town election held in November 2007, 3 members shall be elected to the Municipal Lighting Board. The candidate receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the second and third highest number of votes shall be declared elected to a 2-year term; thereafter, at each regular town election 1 or 2 candidates shall be elected to the office of Municipal Lighting Board.

At the regular town election held in November 2007, 6 members shall be elected to the Thayer Public Library Board of Trustees. The 3 candidates receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the fourth, fifth and sixth highest number of votes, shall be declared elected for a 2-year term. Thayer Library Trustees serving lifetime appointments shall transition to being elected when their office is vacated in accordance with Thayer Library Trustee procedures; thereafter, at each regular town election all candidates shall be elected to 4-year terms.

(c) Immediately following the special November 2007 election, the persons elected as mayor and town council members shall be sworn to the faithful performance of their duties and shall take up so much of the powers and duties of their offices as are necessary to begin the process of transition from the existing form of government to the new form of government. This preparation for the transfer shall include a review by the town council members of policies and procedures to govern the conduct of the business of the town council and the adoption by it of rules by which it will conduct its business. The person chosen as mayor shall meet regularly with the members of the board of selectmen and the school committee and for such purpose shall be considered a member *ex officio* of these bodies. The mayor shall have a right to meet with any town officer, town agency or town employee during regular business hours for the purpose of acquiring and advancing knowledge and information necessary to assume the full powers of mayor on the first business day of January in the year following the year in which the charter is adopted. The

mayor shall be responsible for a review of the existing town by-laws to be undertaken to bring them into conformity with the new charter.

(d) On the first business day of January in 2008 the terms of office of the members of the board of selectmen, the town moderator and of the representative town meeting members shall all be terminated, and their offices abolished. The mayor, town council and school committee shall organize as provided in section 8-10. Each other elected and appointed town officer and employee shall continue to serve in the same office or position until some other provision is made under section 5-1 or unless some other provision is specifically made hereinafter for any particular office or position.

(e) At the regular town election held in November 2007, 4 members shall be elected to the Braintree Housing Authority. The 2 candidates receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the third and fourth highest number of votes shall be elected for a 2-year term; thereafter, at each regular town election, 2 candidates shall be elected to the Braintree Housing Authority for a term of 4 years.

(f) Until such time as another salary is established for the office of the mayor, under section 3-1(c), the initial salary for the mayor of Braintree shall be established as the same sum which is provided at the top level of the pay grade for the position of executive secretary on the date the charter is ratified by the voters, or due to have been paid to such officer effective at the start of the next financial year, whichever is the higher sum. The initial salary for the members of the town council shall be established as \$5,000 for each councilor and \$7,500 for the president of the town council.

(g) The office of executive secretary is hereby abolished effective on the first business day of January 2008. The incumbent in the office of executive secretary shall continue to serve in that office until the first business day of January 2008. The incumbent may be continued in the service of the municipality beyond that termination date, in some other position, if that person and the mayor so agree.

(h) As soon as practical after the first mayor and town council have been elected and taken the oath of office in November 2007, the mayor shall call together an initial meeting of the members of the board of license commissioners established in section 5-7 (c) of this charter. The board of selectmen and its staff shall keep the board of license commissioners so established fully appraised of its activities in the year-end renewing of licenses in order to acquaint the members of the board to these procedures. The board of license commissioners shall assume full authority under chapter 138 and chapter 140 of the General Laws on the first business day in January 2008.

(i) Not later than 30 days after the date of the ratification of this charter by the voters, the board of selectmen shall give to each member of the Massachusetts house and senate who represent any part of Braintree a copy of the vote ratifying this charter and the following petition for the enactment of a special law applicable to Braintree in the following form:

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AN ACT EXCEPTING BRAINTREE FROM CERTAIN PROVISIONS OF THE CIVIL SERVICE LAW

Be it enacted, etc.

For the purpose of classifying positions under the civil service law and rules, Braintree, notwithstanding a Charter establishing its form of government, shall continue to be governed by section 52 of chapter 31 of the General Laws and not by section 51 of said chapter 31. Nothing in this act shall be construed to affect the civil service status of any person currently covered by such law and rules. This act shall take effect upon its passage. The above draft is provided for guidance and general scope and may be altered by the General Court to conform to its normal practice.

(j) As soon as practical following the election at which this charter is adopted the town clerk and the board of registrars of voters shall, using existing precinct boundary lines and voting places, divide the town into 6 equal voting districts, or, as nearly equal as may be using the existing precinct lines. At the first regular town election held under this charter and at each subsequent municipal election until the town has been reapportioned, under sections 1-10, inclusive, of chapter 54 of the General Laws, 1 district councilor shall be elected from each such district and 3 town councilors shall be elected from the town at large.

(k) The position of town accountant, which has existed in Braintree before the effective date of this charter, shall, after the assumption of power and authority by the mayor and town council, be divided into 2 separate and distinct functions. The powers of the office which are associated with auditing, including those described in sections 50, 51, 53 and 54A of chapter 41 of the General Laws shall be assigned to the office of town auditor established by section 2-8(a) of the charter.

The remaining powers of a town accountant having to do with the regular payment of bills and invoices submitted by municipal agencies including those described in sections 52, 56, 57 and 58 of chapter 41 shall be exercised by a person in the executive branch under the title town accountant, subject to the control of the director of municipal finance.

(l) Not later than 30 days after the election at which this charter is adopted, the board of selectmen shall appoint 7 persons to be a committee to begin a review of the town by-laws for the purpose of preparing any revisions and amendments that may be necessary to bring them into conformity with this charter and to fully implement this charter. The committee shall submit a report, with recommendations, to the mayor and council immediately after the election held in the year in which this charter is adopted. The review shall be conducted under the supervision of the town solicitor, or, by special counsel appointed for that express purpose.

(m) Immediately after the first regular town election held under this charter, the mayor-elect shall appoint 7 persons to be a committee to review the town by-laws for the purpose of preparing any revisions and amendments that may be necessary to bring them into conformity with this charter and to fully implement this charter. Upon the appointment of this committee, the committee established under paragraph (l), above, shall be terminated. The mayor may appoint to this committee any of the persons who served on the committee

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established under paragraph (l), or he may appoint different people. The committee shall submit a report, with recommendations, within 1 year after its creation and may submit interim reports with recommendations at any time. The review shall be conducted under the supervision of the town solicitor, or by special counsel appointed for that express purpose.

(n) The incumbent in the office of town clerk shall serve until the expiration of the term for which elected as the town clerk described in section 2-8(b) and at the expiration of that term the town clerk shall be chosen as provided in section 2-8.

(o) The provisions of section 5-3 reorganizing the department of public works, section 5-4 establishing a department of municipal finance, section 5-5 establishing a department of planning and community development, section 5-6 establishing a department of human resources and section 5-7 establishing a department of municipal licenses and inspections shall each take effect upon the appointment by the mayor of the first person to serve as director of that agency. Pending the adoption of an ordinance providing such detail, the directors of each department shall have the power to promulgate rules and regulations providing details of the organization of their department that may be necessary to carry out the functions of these departments.

(p) Unless continued by an ordinance adopted in conformity with section 5-1, all multiple-member bodies shall be abolished as of June 30, 2008, unless that time is further extended by the mayor and council under the authority contained in section 9-6 (r), below.

(q) Notwithstanding any provision of this charter which might appear to the contrary, it is recognized that it will not be possible for the first person elected as mayor to begin at once to exercise all of the powers, duties and responsibilities which are assigned to the office of the mayor. It is recognized that it is in the best interest of the town of Braintree that this assumption be on a gradual basis as the mayor, town council and other municipal officials are able to adopt ordinances and other regulations that are necessary to implement all of the provisions of the charter.

(r) The mayor and town council shall have authority to adopt measures that clarify, confirm or extend any of the transitional provisions in order that the transition may be made in the most expeditious and least contentious manner possible.

Approved January 10, 2006.

Chapter 190. AN ACT AUTHORIZING A PUBLIC WATERFRONT WALKWAY TO BE EXEMPTED FROM THE HARBOR LINE IN THE CHARLESTOWN NAVY YARD IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 14 and 34 of chapter 91 of the General Laws or any other general or special law to the contrary, the department of environmental protection may amend existing license no. 8529 granted to Joinery Shop Associates, its successors

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and assigns, to permit, on such conditions as the department shall determine, installation, maintenance, repair, and replacement of a public waterfront walkway on piles beyond the harbor line in the vicinity of and adjacent to building no. 114 and the abandoned abutment of the old Chelsea Street Bridge in the Charlestown section of the city of Boston, provided that the piles beyond the harbor line for the walkway shall not be installed beyond the mean low water line. Nothing in this act shall exempt the walkway from substantive and procedural requirements of said chapter 91 and regulations promulgated thereunder, other than the exception permitted in this section from the harbor line requirements of said sections 14 and 34 of said chapter 91.

SECTION 2. A plan showing the specific location of the walkway and the mean low water line shall be incorporated in the amendment to said license no. 8529 and made available for public inspection.

Approved January 10, 2006.

SUMMARY OF THE ACTS APPROVED, APPROVAL WITHHELD, ACTS VETOED BY THE GOVERNOR, PASSED OVER HIS VETO, AND ACTS DECLARED EMERGENCY LAWS BY THE GOVERNOR UNDER THE AUTHORITY OF THE CONSTITUTION.

During the first session of the General Court held in 2005, 190 Acts were enacted of which 182 Acts received the Governor's approval.

Chapters 1, 41, 47, and 159 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.

Three Acts were returned by the Governor to the Senate, the branch in which each Act had originated, with his objections thereto. Chapter 27 was passed by the Senate and the House on May 31, 2005. Chapters 90 and 91 were passed by the Senate and the House on September 15, 2005. The Governor's objections notwithstanding, these chapters have the force of law and have been so certified.

One Act was returned by the Lieutenant Governor, Acting Governor to the House, the branch in which the Act had originated with her objection thereto. Chapter 92 was passed by the House and the Senate on September 15, 2005. The Lieutenant Governor, Acting Governor's objection notwithstanding, this chapter has the force of law and has been so certified.

This summary does not include those line item vetoes by the Governor on appropriation Acts nor any subsequent legislative action on those vetoes.

Five Acts were declared to be emergency laws by the Governor under Article XLVIII of the Amendments to the Constitution. These are Chapters 38, 66, 121, 138, and 157.

The 2005 session of the General Court was dissolved at midnight on Tuesday January 3, 2006 the session having lasted 364 days.



William Francis Galvin
Secretary of the Commonwealth

OFFICE OF THE SECRETARY, BOSTON, MASSACHUSETTS October 31, 2006

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.



William Francis Galvin
Secretary of the Commonwealth

TABLE OF CHANGES

SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS APPEARING IN THE 2004 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 2005.

CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.

CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.

CHAPTER 3 - The General Court.

§ 9 repealed, 2005, 3 § 1. (*See* 2005, 3 § 3.)

CHAPTER 4 - Statutes.

§ 7, Clause Forty-third, definition of "World War II veteran" revised, 2005, 130 § 1.

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.

§ 15ZZZZ added, 2005, 2.

§ 133 amended, 2005, 6 § 3.

CHAPTER 6A - Executive Offices.

CHAPTER 6B - Acute Hospital Finance.

**CHAPTER 7 - Executive Office for Administration and Finance.
(Former title, Commission on Administration and Finance.)**

§ 51 repealed, 2005, 45 § 4. (*See* 2005, 45 § 38.)

CHAPTER 7A - Office of the Comptroller.

CHAPTER 8 - State Superintendent of Buildings, and State House.

CHAPTER 9 - Department of the State Secretary.

CHAPTER 9A - Address Confidentiality Program.
(New Chapter added, 2000, 409.)

CHAPTER 10 - Department of the State Treasurer.

§ 35CC added, 2005, 130 § 2.

§ 64, fourth paragraph, last sentence stricken out, 2005, 176 § 1.

CHAPTER 11 - Department of the State Auditor.

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.

§ 3A, second sentence revised, 2005, 163 § 1.

§ 6, paragraph added, 2005, 163 § 2.

CHAPTER 15 - Department of Education.

CHAPTER 15A - Public Education.

§ 19, paragraph inserted after second paragraph, 2005, 130 § 2A. (See 2005, 130 § 19.)

CHAPTER 15B - The New England Educational Loan Marketing Corporation Act.
(Chapter repealed, 1982, 356 § 2.)

CHAPTER 15C - Massachusetts College Student Loan Authority.

CHAPTER 15D - Department of Early Education and Care.
(New Chapter added, 2004, 205.) (See 2004, 205 § 2.)

CHAPTER 16 - Department of Highways.
(Formerly, Department of Public Works.)

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- CHAPTER 17 - Department of Public Health.**
- CHAPTER 18 - Department of Transitional Assistance.**
(Title revised, 1995, 5 § 7. Former title, Department of Public Welfare.) (See 1995, 5 § 7.)
- CHAPTER 18A - Department of Youth Services.**
- CHAPTER 18B - Department of Social Services.**
- CHAPTER 19 - Department of Mental Health.**
- CHAPTER 19A - Department of Elder Affairs.**
- CHAPTER 19B - Department of Mental Retardation.**
- CHAPTER 19C - Disabled Persons Protection Commission.**
- CHAPTER 19D - Assisted Living.**
(New chapter inserted, 1994, 354 § 3.)
- CHAPTER 20 - Department of Food and Agriculture.**
- CHAPTER 21 - Department of Environmental Management.**
- CHAPTER 21A - Executive Office of Environmental Affairs.**
- CHAPTER 21B - Mining Regulation and Reclamation.**
- CHAPTER 21C - Massachusetts Hazardous Waste Management Act.**
- CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.**
- CHAPTER 21E - Massachusetts Oil and Hazardous Material Release Prevention and Response Act.**
- CHAPTER 21F - Coastal Facilities Improvement.**
- CHAPTER 21G - Massachusetts Water Management Act.**

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- 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 21M -** (New Chapter inserted, 2004, 251 § 11.)
- 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.)
- CHAPTER 23 - Department of Labor and Work Force Development.**
(New title inserted, 1996, 196, 151 § 110, Former title, Department of Labor and Industries.) (See 1996, 151 § 690.)
- CHAPTER 23A - Department of Economic Development.**
(New title inserted, Former title, Department of Commerce and Development.)

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.

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.)

CHAPTER 23H - WORKFORCE DEVELOPMENT.
(New chapter inserted, 2003, 26 § 571.) (See 2003, 26 § 715.)

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 amended, 2005, 140 §§ 3, 4, 5.

CHAPTER 25A - Division of Energy Resources.
(Formerly, Executive Office of Energy Resources.)

CHAPTER 25B - Massachusetts Appliance Efficiency Standards Act.

§ 2, definitions of “Ballast”, “Boiler” and “Central Furnace” inserted, 2005, 139 § 1; definitions of “Compensation”, “Electricity ratio (ER)” and “High-intensity discharge lamp”, inserted, 2005, 139 § 2; section amended, 2005, 139 § 3; definitions of “Medium voltage dry-type distribution transformer”, “Metal halide lamp” and “Metal halide lamp fixture” inserted, 2005, 139 § 4; definitions of “Probe-start metal halide ballast” inserted, 2005, 139 § 5; definitions of “Residential furnace or boiler”, “Single voltage external AC to DC power supply” and “State-regulated incandescent reflector lamp” inserted, 2005, 139 § 6; definition of “Transformer” inserted, 2005, 139 § 7.

CHAPTER 25B - Massachusetts Appliance Efficiency Standards Act. - continued

§ 3, first paragraph, 5 clauses inserted, 2005, 139 § 8; **section amended**, 2005, 139 § 9.

§ 4 amended, 2005, 139 § 10.

§ 5, 4 paragraphs added, 205, 139 § 11.

§ 6 amended, 2005, 139 § 12.; two paragraphs inserted after first paragraph, 2005, 139 § 13.

§ 7, first paragraph, 3 sentences added, 2005, 139 § 14; paragraph added, 2005, 139 § 15.

§ 8 amended, 2005, 139 § 16; sentence inserted after first sentence, 2005, 139 § 17.

§ 10 revised, 2005, 139 § 18.

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.

(Former Title, Office For Children.) (*See* 2000, 313 § 8.)

CHAPTER 29 - State Finance.

§12A, paragraph added, 2005, 35 § 3.

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.

CHAPTER 30A - State Administrative Procedure.

CHAPTER 30B - Uniform Procurement Act.

(New chapter inserted, 1989, 687 § 3.)

CHAPTER 31 - Civil Service.

CHAPTER 31A - Municipal Personnel Systems.

CHAPTER 32 - Retirement Systems and Pensions.

§ 4 amended, 2005, 6 ; subsection (1), paragraph (h ½) inserted, 2005, 90; **section amended**, 2005, 130 § 3.

§ 7, subdivision (2), paragraph (e) added, 2005, 157 § 1.

§ 12, subdivision (4) added, 2005, 143 § 1.

§ 89E added, 2005, 125 § 4. (*See* 2005, 125 § 9.)

§ 100A amended, 2005, 125 § 5; paragraph (c), sentence added, 2005, 125 § 6; **section amended**, 2005, 125 § 7. (*See* 2005, 125 § 9.)

CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

§ 2 amended, 2005, 173 § 1.

§ 8 amended, 2005, 173 § 2.

CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and their Dependents.

§ 3A, paragraph added, 2005, 61 § 1.

CHAPTER 33 - Militia.

§ 83, amended, 2005, 130 § 4.

§ 88, second and third paragraphs stricken out, paragraph inserted, 2005, 130 § 5. (*See* 2005, 130 § 17).

§ 88B added, 2005, 130 § 6.

§ 89E added, 2005, 125 § 4. (*See* 2005, 125 § 9.)

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.

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- CHAPTER 36 - Registers of Deeds.**
- CHAPTER 37 - Sheriffs.**
- CHAPTER 38 - Medical Examiners.**
- CHAPTER 39 - Municipal Government.**
- CHAPTER 40 - Powers and Duties of Cities and Towns.**
- CHAPTER 40A - Zoning Regulations.**
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- CHAPTER 40H - Community Economic Development Assistance Corporation.**
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(Chapter repealed, 1996, 151 § 196.) (See 1996, 151 § 690.)
- CHAPTER 40J - Massachusetts Technology Park Corporation.**
- CHAPTER 40K - MASSACHUSETTS PRODUCT DEVELOPMENT CORPORATION.**
(Chapter repealed, 1996, 58 § 23.) (See 1996, 58 § 105.)
- CHAPTER 40L - AGRICULTURAL INCENTIVE AREAS.**
- CHAPTER 40M - GOVERNMENTAL UNITS POOLED INSURANCE.**
- CHAPTER 40N - MODEL WATER AND SEWER COMMISSION.**
(New chapter inserted, 1992, 343 § 2.)

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- 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 40R- SMART GROWTH ZONING AND HOUSING PRODUCTION.**
(New Chapter inserted, 2004, 149 § 92.) (See 2004, 149 § 428.)
- § 2, definition of “Density bonus payment” revised, 2005, 6 § 5; definition of “Trust fund” revised, 2005, 6 § 6.
- CHAPTER 40S- SMART GROWTH SCHOOL COST REIMBURSEMENT.**
(New Chapter inserted, 2005, 141 § 1.)
- CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.**
§ 97B, second paragraph, sentence added, 2005, 91 § 1
- CHAPTER 42 - Boundaries of Cities and Towns.**
- CHAPTER 43 - City Charters.**
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- CHAPTER 43B - Home Rule Procedures.**
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(New chapter inserted, 1987, 756.)
- CHAPTER 43D - EXPEDITED PERMITTING.**
(New chapter inserted, 2004, 149 § 94.) (See 2004, 149 § 428.)

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- CHAPTER 44 - Municipal Finance.**
- CHAPTER 44A - QUALIFIED BOND ACT.**
- CHAPTER 44B. - COMMUNITY PRESERVATION.**
(New chapter inserted, 2000, 267 § 1.)
- CHAPTER 45 - Public Parks, Playgrounds and the Public Domain.**
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- CHAPTER 47 - Infirmaries.**
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- CHAPTER 49 - Fences, Fence Viewers, Pounds and Field Drivers.**
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- CHAPTER 55 - Disclosure of Campaign Expenditures and Contributions and Election Inquests.**
- 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.)

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, 2005, 106 § 12.

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.

§ 5 amended, 2005, 136 § 1.

§ 5K, second paragraph revised, 2005, 6 § 7.

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

CHAPTER 60B - Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.

CHAPTER 61 - Classification and Taxation of Forest Lands and Forest Products.
(Former title, Taxation of Forest Products and Classification and of Forest Lands.)

CHAPTER 61A - Assessment and Taxation of Agricultural and Horticultural Land.

CHAPTER 61B - Classification and Taxation of Recreational Land.

CHAPTER 62 - Taxation of Incomes.

§ 1, paragraph (c) amended, 2005, 163 § 3.

§ 3 amended, 2005, 163 § 4; paragraph (a) of Part B, subparagraph (14) added, 2005, 163 § 5.

§ 5A, subsection (d) added, 2005, 163 § 6.

§ 6, paragraph (1) of subsection (k), definition of "Cost-of-housing-adjustment" inserted, 2005, 136 § 2; **section amended**, 2005, 136 § 3; subsection (k), paragraph (4), first sentence stricken out, 2 sentences inserted, 2005, 136 § 4; subsection (l) added, 2005, 158 § 1; subsection (l), paragraph (5) of subparagraph (i), first sentence revised, 2005, 167 § 3. (*See* 2005, 167 § 5.)

§ 6K added, 2005, 130 § 7.

CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.

CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.

§ 5, second paragraph revised, 2005, 163 § 7.

CHAPTER 62C - Administrative Provisions Relative to State Taxation.

§ 12, paragraph (a) revised, 2005, 163 § 8.

§ 21B added, 2005, 163 § 9.

§ 30, first 2 paragraphs stricken out, 3 paragraphs inserted, 2005, 163 § 10.

§ 30A added, 2005, 163 § 11.

§ 31A, first paragraph revised, 2005, 163 § 13.

§ 35A added, 2005, 163 § 12.

§ 35B added, 2005, 163 § 12.

§ 35C added, 2005, 163 § 12.

§ 35D added, 2005, 163 § 12.

§ 35E added, 2005, 163 § 14.

§ 36A, paragraph added, 2005, 163 § 15.

§ 43 amended, 2005, 163 § 16.

§ 49A, subsections (a) and (b) revised, 2005, 163 § 17. (*See* 2005, 163 § 61.)

§ 50, subsection (a), sentence inserted after first sentence, 2005, 163 § 18.

CHAPTER 62D - SET-OFF DEBT COLLECTION.

CHAPTER 62E - WAGE REPORTING SYSTEM.

CHAPTER 62F - LIMITATION ON THE GROWTH OF STATE TAX REVENUES.

CHAPTER 63 - Taxation of Corporations.

§ 30 added, 2005, 163 §§ 19, 20, 21.; paragraph 9 inserted, 2005, 163 § 22.

§ 31A amended, 2005, 163 §§ 23, 24, 25.

§ 38, subsection (f) revised, 2005, 163 § 26.

§ 38C, paragraph added, 2005, 163 § 27.

§ 38T added, 2005, 140 § 9. (See 140 § 10.)

§ 38T repealed, 2005, 140 § 10.

§ 38T added, 2005, 158 § 2.

§ 38T added, 2005, 163 § 28.

§ 42B, paragraph added, 2005, 163 § 29.

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.)**

CHAPTER 64B - Excise upon Charges for Meals served to the Public.

CHAPTER 64C - Cigarette Excise.

CHAPTER 64D - Excise on Deeds, Instruments and Writings.

CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles

CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and used within the Commonwealth.

CHAPTER 64G - Room Occupancy Excise.

§ 7B revised, 2005, 163 § 30.

CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.

§ 1, definitions of "Motion picture" and "Motion picture production company" inserted, 2005 158 § 3; **section amended**, 2005, 163 §§ 31, 32, 33, 34. (*See* 2005, 163 § 61.) §6, paragraph (q), clause (1) revised, 2005, 163 § 35; paragraph (qq), first sentence revised, 2006, 163 § 36; paragraph (ww) added, 2005, 158 § 4.
§ 16 revised, 2005, 163 § 37.

CHAPTER 64I - Tax on storage, Use or Other Consumption of Certain Tangible Personal Property.

§ 17 revised, 2005, 163 § 38.

CHAPTER 64J - TAXATION OF FUELS USED IN THE PROPULSION OF AIRCRAFT.

CHAPTER 64K - Controlled Substances Tax.
(New Chapter inserted, 1993, 110 § 127.) (*See* 1993, 110 § 390.)

CHAPTER 65 - Taxation of Legacies and Successions.

CHAPTER 65A - Taxation of Transfers of Certain Estates.

CHAPTER 65B - Settlement of Disputes respecting the Domicile of Decedents for Death Tax Purposes.

CHAPTER 65C - Massachusetts Estate Tax.

CHAPTER 66 - Public Records.

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.

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- 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.)
- CHAPTER 71 - Public Schools.**
§ 4, 2 paragraphs added, 2005, 130 § 8.
- CHAPTER 71A - TRANSITIONAL BILINGUAL EDUCATION.**
(Chapter revised, 2002, 386.) (See 2002, 386 § 4.)
- CHAPTER 71B - CHILDREN WITH SPECIAL NEEDS.**
§ 12, last paragraph revised, 2005, 6 § 8.
- 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.**
- CHAPTER 74A - INDEPENDENT AGRICULTURAL AND TECHNICAL SCHOOL.**
(Chapter inserted 2000, 159 § 191.) (See 2000, 159 § 498.)
(Chapter repealed, 2004, 463 § 1.) (See 2004, 463 § 18.)
- CHAPTER 75 - University of Massachusetts.**
(Former title, Massachusetts State College.)
§ 46 added, 2005, 45 § 5. (See 2005, 45 § 38.)
- CHAPTER 75A - University of Lowell.**
(Former title, Lowell Technological Institute of Massachusetts.)
(Chapter repealed, 1991, 142 § 23.) (See 1991, 142 §§ 4, 50.)

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- 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.)
- 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.

CHAPTER 90 - Motor Vehicles and Aircraft.

§ 8, first paragraph sentence added, 2005, 145 § 1.

§ 8E, paragraph added, 2005, 145 § 2.

§ 12 revised, 2005, 122 § 1. (*See* 2005, 122 § 22.)

§ 23, paragraph inserted after second paragraph, 2005, 122 § 2. (*See* 2005, 122 § 22.)

§ 24 amended, 2005, 122 §§ 3, 4, 5; subdivision (1), paragraph (c), subparagraph (2) sentence added; 2005, 122 § 6; subparagraph (3), sentence added, 2005, 122 § 7; subparagraph (3 ½) sentence added, 25, 122 § 8; paragraph (f), subparagraph (1) revised, 2005, 122 § 9; subparagraph (2), clauses (ii) to (iv) stricken out, clauses (ii) and (iii) inserted, 2005, 122 § 10; second paragraph, first sentence revised, 2005, 122 § 11; fourth paragraph stricken out, 2005, 122 § 12. (*See* 2005, 122 § 22.)

§ 24 ½ added, 2005, 122 § 13. (*See* 2005, 122 § 22.)

§ 24D amended, 2005, 122 § 14; fifth paragraph revised, 2005, 122 § 15; sixth paragraph revised, 2005, 122 § 15A. (*See* 2005, 122 § 22.)

§ 24G amended, 2005, 122 § 16. (*See* 2005, 122 § 22.)

§ 24Q added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

§ 24R added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

§ 24S added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

§ 24T added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

§ 24U added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

§ 24V added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

§ 24W added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

§ 24X added, 2005, 122 § 17. (*See* 2005, 122 § 22.)

CHAPTER 90A - The Highway Safety Act.

CHAPTER 90B - Motorboats, Other Vessels and Recreational Vehicles.
(Former title, Motorboats and Other Vessels.) (Title revised, 1998,
463 § 72.)

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- CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.**
- CHAPTER 90D - Motor Vehicle Certificate of Title.**
- CHAPTER 90E - Bikeways.**
- CHAPTER 90F - UNIFORM OPERATION OF COMMERCIAL MOTOR VEHICLES ACT.**
(New chapter inserted, 1990, 246 § 2.)
- CHAPTER 90G - CIVIL INFRACTIONS.**
(New chapter inserted, 1992, 133 § 452.) (See 1992, 133 § 598.)
(Chapter repealed, 1993, 182 § 8.)
- CHAPTER 90H - GATEWAY ROADS PROGRAM.**
(New chapter inserted, 1994, 273 § 26.)
- CHAPTER 91 - Waterways.**
- CHAPTER 91A - Port of Boston Commission.**
(Former title, Port of Boston Authority.)
- CHAPTER 92 - Metropolitan Sewers, Water and Parks.**
- CHAPTER 92A - Commonwealth Zoological Corporation.**
(New chapter inserted, 1991, 6 § 24.) (See 1991, 6 § 58.)
- CHAPTER 92A½ - WATERSHED MANAGEMENT.**
(New chapter inserted, 2003, 26 § 290.) (See 2003, 26 § 715.)
- CHAPTER 92B - COMMONWEALTH ZOOLOGICAL CORPORATION.**
(New chapter inserted, 1992, 286 § 165.)
- CHAPTER 93 - Regulation of Trade and Certain Enterprises.**
§ 52A revised, 2005, 163 § 39.
- CHAPTER 93A - Regulation of Business Practices for Consumers Protection.**
- CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufactures, Distributors and Dealers.**
(Chapter revised, 2002, 222 § 3.) (See 2002, 222 § 7.)

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- 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.**
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- CHAPTER 94C - Controlled Substances Act.**
§ 19A, inserted, 2005, 91 § 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 94F - Complementary Provisions Concerning Tobacco Product Manufacturers.**
(New chapter inserted, 2004, 90 § 3.)
- CHAPTER 95 - Measuring of Leather.**
- CHAPTER 96 - Measurement of Lumber.**
- CHAPTER 97 - Surveying of Land.**
- CHAPTER 98 - Weights and Measures.**

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- 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.**

CHAPTER 110A - Uniform Securities Act.

CHAPTER 110B - Registration and Protection of Trademarks.

CHAPTER 110C - Regulation of Take-over Bids in the Acquisition of Corporations.

CHAPTER 110D - REGULATION OF CONTROL SHARE ACQUISITIONS.
(New chapter inserted, 1987, 272 § 1.) (See 1987, 272 § 3.)

CHAPTER 110E - REGULATION OF CONTROL SHARE ACQUISITIONS OF FOREIGN CORPORATIONS.
(New chapter inserted, 1987, 272 § 2.)

CHAPTER 110F - BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS.
(New chapter inserted, 1989, 242 § 8.)

CHAPTER 110G - UNIFORM ELECTRONIC TRANSACTIONS.
(New chapter inserted, 2003, 133 § 3.)

CHAPTER 111 - Public Health.

§ 5K, Paragraph (F), last sentence revised, 2005, 6 § 9; Paragraph (G), last sentence revised, 2005, 6 § 10.

§ 70E amended, 2005, 91 § 3; paragraph inserted after eighth paragraph, 2005, 91 § 4.

CHAPTER 111A - Drug Addiction Rehabilitation.
(Chapter repealed, 1969, 889 § 23A.)

CHAPTER 111B - Alcoholism.

CHAPTER 111C - Emergency Medical Services System.
(Chapter Revised, 2000, 54 § 3.) (See 2000, 54 § 12.)
(Former title, Emergency Medical Care.)

CHAPTER 111D - Clinical Laboratories.

CHAPTER 111E - DRUG REHABILITATION.

CHAPTER 111F - HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS

CHAPTER 111G - EARLY CHILDHOOD INTERVENTION SERVICES.

CHAPTER 111H - MASSACHUSETTS LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT ACT.

CHAPTER 111I - WOMEN'S, INFANTS AND CHILDREN PROGRAM.
(New chapter inserted, 1992, 414 § 3.)

CHAPTER 111J - Alcohol and Drug Counselors.
(New chapter inserted, 1999, 127 § 115.) (See 1999, 127 § 390.)

CHAPTER 111K - CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND COMMISSION.
(New chapter inserted, 2000, 159 § 207.) (See 2000, 159 § 498.)

CHAPTER 111L - BIOTECHNOLOGY.
(New chapter inserted, 2005, 27 § 1.)

§ 9, subsection (i) added, 2005, 106 § 22.

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 12J, subsection (a), paragraph added, 2005, 27 § 2; section amended, 2005, 27 §§ 3, 4, 5, 6, 7.

§ 12K amended, 2005, 27 § 8.

§ 39C, sentence inserted after first sentence, 2005, 45 § 6. (See 2005, 45 § 38.)

CHAPTER 113 - Promotion of Anatomical Science.

§ 5A revised, 2005, 145 § 3.

§ 7 amended, 2005, 27 § 9; definition of "Donor" stricken out, definitions of "Document of gift", "Donor" and "Donor registry" inserted, 2005, 145 § 4

§ 8, subsections (b) to (g) stricken out, subsections (b) to (f) inserted, 2005, 145 § 5.

§ 10 amended, 2005, 145 § 6.

§ 13 repealed, 2005, 145 § 7.

CHAPTER 114 - Cemeteries and Burials.

CHAPTER 115 - Veteran's Benefits.

(Former title, State and Military Aid, Soldier's Relief, etc.)

§ 1 amended, 2005, 6 § 11.

§ 5 amended, 2005, 6 § 12.

§ 6A revised, 2005, 6 § 13.

§ 6B, amended, 2005, 130 §§ 9, 10, 11. (See 2005, 130 § 18.)

CHAPTER 115A - Soldier's Homes.

CHAPTER 116 - Settlement.

CHAPTER 117 - Support by the Commonwealth.
(Former title, Support by the Cities and Towns.)

CHAPTER 117A - SUPPORT BY THE COMMONWEALTH.
(New chapter inserted, 1991, 255 § 4.) (See 1991, 255 § 7.)

CHAPTER 118 - Aid to Families with Dependent Children.
(Former title, Aid to Dependent Children.)

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.)

§ 9D, paragraph (q) added, 2005, 66.

§ 32A repealed, 2005, 6 § 14.

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.)

§ 18, subsection (o) revised, 2005, 45 § 7. (See 2005, 45 § 38.)

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

§ 23, last 2 sentences stricken out, 3 sentences inserted, 2005, 163 § 40.

CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.

§ 2 , second paragraph of subsection (a), sentence inserted after first sentence, 2005, 163 § 41.

§ 3B amended, 2005, 163 § 42; subsection (f) stricken out, 2005, 163 § 43.

§ 6 amended, 2005, 163 §§ 44, 45.

CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools.
(Former title, Youth Service Board and Massachusetts Training Schools.)

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.

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.

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- 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.**
- § 151A, "Interstate Compact for Adult Offender Supervision" Heading revised, 2005, 121 § 2; section revised, 2005, 121 § 3.
- § 151B revised, 2005, 121 § 3.
- § 151C revised, 2005, 121 § 3.
- § 151D revised, 2005, 121 § 3.
- § 151E revised, 2005, 121 § 3.
- § 151F revised, 2005, 121 § 3.
- § 151G revised, 2005, 121 § 3.
- § 151H revised, 2005, 121 § 3.
- § 151I revised, 2005, 121 § 3.
- § 151J revised, 2005, 121 § 3.
- § 151K revised, 2005, 121 § 3.
- § 151L revised, 2005, 121 § 3.
- § 151M revised, 2005, 121 § 3.
- § 151N added, 2005, 121 § 3.
- CHAPTER 128 - Agriculture.**
- CHAPTER 128A - Horse and Dog Racing Meetings.**
- CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion.**
- CHAPTER 128C - SIMULCAST WAGERING OF HORSE AND DOG RACING.**
(New chapter inserted, 1992, 101 § 5.)
- 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.)

CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources.
(Former title, Powers and Duties of the Division of Fisheries and Game.)

CHAPTER 131A - MASSACHUSETTS ENDANGERED SPECIES ACT.
(New chapter added, 1990, 408 § 4.) (See 1990, 408 § 5.)

CHAPTER 132 - Forestry.

CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District.
(Former title, State Parks and Reservations outside of the Metropolitan Parks District.)

CHAPTER 132B - Massachusetts Pesticide Control Act.

CHAPTER 133 - Disposition of Old and Infirm Animals.

CHAPTER 134 - Lost Goods and Stray Beasts.

CHAPTER 135 - Unclaimed and Abandoned Property.

CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays.
(Former title, Observance of the Lord's Day and Legal Holidays.)

§ 6, clause (50), first paragraph revised, 2005, 165 § 1.

§ 15, third paragraph, third sentence revised, 2005, 165 § 2.

§ 16, first paragraph revised, 2005, 165 § 3.

CHAPTER 137 - Gaming.

CHAPTER 138 - Alcoholic Liquors.
(Former title, Intoxicating Liquors and Certain Non-intoxicating Beverages.)

CHAPTER 139 - Common Nuisances.

CHAPTER 140 - Licenses.

§ 177A, subsection (9) added, 2005, 180 § 1. (See 2005, 180 § 2.)

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.

CHAPTER 146 - Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.

CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.

CHAPTER 148 - Fire Prevention.

§ 10A, first paragraph, last sentence stricken out, four sentences inserted, 2005, 123 § 1.

§ 26E amended, 2005, 123 § 2.

§ 27A amended, 2005, 123 § 3.

§ 26F^{1/2} added, 2005, 123 § 4. (See 2005, 123 § 5.)

CHAPTER 148A - (New chapter inserted, 2004, 304 § 7.)
(See 2004, 304 § 12.)

CHAPTER 149 - Labor and Industries.

§ 33E added, 2005, 99 § 1.

§ 150 amended, 2005, 99 § 2.

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§ 10, subsection (a) and (b) revised, 2005, 162 § 9. (See 2005, 162 § 12.)

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