









**ACTS  
AND  
RESOLVES**

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

**2008**

**VOLUME I**

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



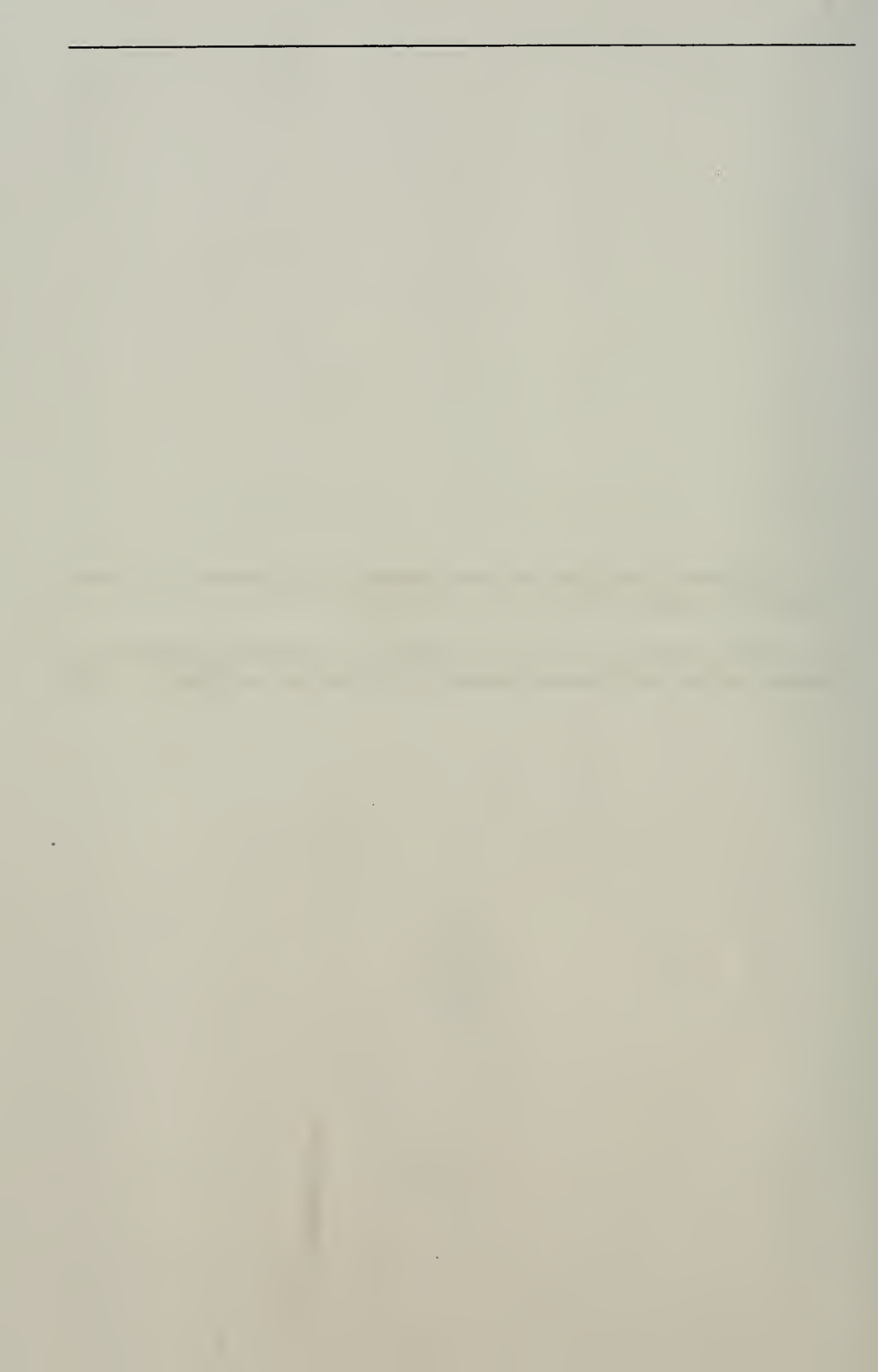




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The General Court, which was chosen November 7, 2006, assembled on Wednesday, the second day of January 2008 for the second session.

His Excellency Deval L. Patrick and the Honorable Timothy P. Murray served as Governor and Lieutenant Governor respectively for the political year of 2008.



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## 2008 ACTS AND RESOLVES

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Published by William Francis Galvin  
Secretary of the Commonwealth





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**Chapter 1. AN ACT RELATIVE TO THE IPSWICH AFFORDABLE HOUSING TRUST FUND.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

**SECTION 1.** Chapter 145 of the acts of 2004 is hereby repealed.

**SECTION 2.** The terms of any trustees serving on the board of trustees established under chapter 145 of the acts of 2004 are hereby terminated and the offices of that board are hereby abolished. The board of trustees of the Ipswich Affordable Housing Trust Fund established under section 55C of chapter 44 of the General Laws shall be the lawful successor of the board of trustees established under chapter 145 of the acts of 2004.

**SECTION 3.** All funds, real and personal property, and other assets in the care, custody and control of the board of trustees established under chapter 145 of the acts of 2004 are hereby transferred to the care, custody and control of the board of trustees of the Ipswich Affordable Housing Trust Fund established under section 55C of chapter 44 of the General Laws.

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

Approved January 9, 2008.

**Chapter 2. AN ACT AUTHORIZING THE SALE OF A CERTAIN PARCEL OF LAND IN THE CITY OF WALTHAM TO SAID CITY.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the conveyance of certain land in the city of Waltham, 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 40F to 40J of chapter 7 of the General Laws or any other general or special law to the contrary, within 30 days after the effective date of this act, the commissioner of capital asset management and maintenance shall convey a certain parcel of state owned wetland in the city of Waltham to the city of Waltham; provided, however, that any deed conveying the parcel shall contain the restriction required pursuant to section 2. The parcel is identified as parcel "B" on a plan entitled, "Plan of Land in Waltham & Lexington, Massachusetts surveyed for City of Waltham", prepared by Roberge Associates Land Surveying, 21 Mohawk Trail #283, Greenfield, Massachusetts, 01301, and dated June 15, 2006. The consideration for said conveyance shall be the full and fair market value of the parcel as determined by the commissioner of capital asset management and maintenance pursuant to an independent professional appraisal.

**SECTION 2.** The property described in section 1 shall be conveyed subject to a

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restriction limiting the use of the parcel to recreation purposes, conservation purposes, and flood control and relief measures, including, but not limited to, the placement of drainage lines. If at any time the property ceases to be used for the purposes described in this section, the property, upon notice by the commissioner of capital asset management and maintenance to the city, shall revert to the care and control of the commonwealth and any further disposition of the property shall be subject to chapter 7 of the General Laws.

**SECTION 3.** The inspector general shall review and approve the appraisal required pursuant to section 1. The inspector general shall prepare a report of his review of the methodology utilized for the appraisal and shall file the report with the commissioner of capital asset management and maintenance, the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets. The commissioner of capital asset management and maintenance shall, 30 days before the execution of any conveyance authorized by this act or any subsequent amendment thereto, submit the proposed conveyance 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 his receipt of the proposed conveyance or amendment. The commissioner shall submit the proposed conveyance or amendment, and the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets at least 15 days before execution of the conveyance.

**SECTION 4.** The city of Waltham shall be responsible for all costs and expenses, including, but not limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the transfers and conveyances authorized in this act as such costs may be determined by the commissioner of capital asset management and maintenance. Upon conveyance of the parcel, the town shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel.

Approved January 11, 2008.

## **Chapter 3. AN ACT AUTHORIZING THE DEPARTMENT OF SOCIAL SERVICES TO MAINTAIN AND RELEASE CERTAIN INFORMATION FOR THE PROTECTION OF CHILDREN IN COMPLIANCE WITH FEDERAL LAW.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to expand forthwith the placement options for children, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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



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## Chap. 3

**SECTION 1.** Section 51E of chapter 119 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “board”, in line 5, the following words:- , the child welfare agencies of other states for the purpose of assisting said child welfare agency in determining whether to approve a prospective foster or adoptive parent,.

**SECTION 2.** Said section 51E of said chapter 119, as so appearing, is hereby further amended by inserting after the word “last”, in line 18, the following words:- ; provided, however, that the department may retain information on unsubstantiated reports to assist in future risk and safety assessments of children and families and may release said information to the child welfare agencies of other states upon request of said child welfare agency for the purpose of assisting said child welfare agency in determining whether to approve a prospective foster or adoptive parent.

**SECTION 3.** Section 51F of said chapter 119, as so appearing, is hereby amended by inserting after the word “order”, in line 6, the following words:- ; provided, however, that the department may release data and information maintained pursuant to this section to the child welfare agencies of other states upon request of said child welfare agency in determining whether to approve a prospective foster or adoptive parent.

Approved January 11, 2008.

## **Chapter 4. AN ACT RELATIVE TO COMPLYING WITH THE FEDERAL SAFE AND TIMELY PLACEMENT OF FOSTER CHILDREN ACT OF 2006 AND THE CHILD AND FAMILY SERVICES IMPROVEMENT ACT OF 2006.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to expand forthwith the placement options for children, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 29B of chapter 119 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

If a child is not to be returned to his parents, the permanency plan shall consider in-state and out-of-state placement options. In the case of a child placed in foster care outside the state in which the home of the parents of the child is located, the permanency plan shall also address whether the out-of-state placement continues to be appropriate and in the best interests of the child. In the case of a child who has attained age 16, the permanency plan shall also address the services needed to assist the child in making the transition from foster

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## Chap. 4

care to independent living; and provided further, that the court shall consult with the child in an age-appropriate manner about the permanency plans developed for the child.

**SECTION 2.** Said section 29B of said chapter 119, as so appearing, is hereby further amended by striking out, in line 37, the words “the provisions set forth in” and inserting after the word “plan”, in line 39, the following words:- including, if appropriate, through an interstate placement, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Approved January 11, 2008.

## Chapter 5. **AN ACT REMOVING AN AGRICULTURAL PRESERVATION RESTRICTION IN THE TOWN OF RAYNHAM KNOWN AS THE BORDEN COLONY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to remove an agricultural preservation restriction in the town of Raynham, 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 chapter 586 of the acts of 1981 or any other general or special law to the contrary, the agricultural preservation restriction, as defined in sections 31, 32 and 33 of chapter 184 of the General Laws, which is currently held jointly by the commonwealth, acting through the commissioner of food and agriculture, and the town of Raynham, acting through its conservation commission, by virtue of said chapter 586 and by virtue of a quitclaim deed from the commonwealth, acting through the division of capital asset management and maintenance, under sections 40E and 40F of chapter 7 of the General Laws and chapter 586 of the acts of 1981, said quitclaim deed being recorded in the Bristol county northern district registry of deeds in book 2176, pages 297-305, is hereby removed from the following described portions of the land in the town of Raynham known as The Borden Colony:-

A parcel of land in the town of Raynham containing about 57,440 square feet, owned by the town of Raynham on the southerly side of Thrasher street and bounded as follows: northerly in 10 courses by the existing southerly sideline of Thrasher street about 393 feet, about 50 feet, about 243 feet, about 220 feet, about 345 feet, about 203 feet, about 119 feet, about 107 feet, about 174 feet, and about 57 feet, respectively; northeasterly by the southwesterly sideline of an unnamed road about 57 feet; southerly in 9 courses by the location line of the 2003 town layout of Thrasher street about 74 feet, 160.21 feet, 173.93 feet,

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96.03 feet, 320.66 feet, 753.49 feet, 207.97 feet, 298.70 feet, and 50.31 feet, respectively; and westerly by land now or formerly of King Philip Realty Trust about 33 feet.

A parcel of land in the town of Raynham containing about 1,500 square feet, presumed to be owned by the town of Raynham on the southerly side of Thrasher street and bounded as follows: northwesterly by the existing southerly sideline of Thrasher street about 94 feet; northeasterly by land of town of Raynham about 19 feet; southeasterly by other land presumed to be owned by the town of Raynham on an unnamed road about 41 feet; and southerly by land of town of Raynham about 57 feet.

A parcel of land in the town of Raynham, containing about 18,770 square feet, owned by the town of Raynham on the southerly side of Thrasher street and bounded as follows; northerly in 2 courses by the existing southerly sideline of Thrasher Street about 415 feet and about 338 feet, respectively; easterly by the existing westerly sideline of King Philip street about 144 feet; and southerly and southeasterly in four courses by the location line of the 2003 town layout of Thrasher street 67.26 feet, 380.07 feet, 87.04 feet, and about 131 feet, respectively.

**SECTION 2.** As a condition of the execution of the release authorized in section 1, the department of agricultural resources shall have received, or shall be satisfied that it shall receive, mitigation for the loss of the parcel of farmland subject to the agricultural preservation restriction prior to the execution of a certificate of release for the parcel. The town of Raynham may provide such mitigation by: (1) transferring a parcel of land under the care, custody, management and control of the board of selectmen and dedicated for general municipal purposes to the conservation commission and dedicating such parcel for agricultural purposes; (2) acquiring, if no suitable parcel can be transferred to the conservation commission, a parcel of land or an agricultural preservation restriction on private or public land as defined in section 31 of chapter 184 of the General Laws; or (3) paying the department \$17,800 to use to purchase a future agricultural restriction in the vicinity of the town of Raynham. Land transferred or acquired under this section shall be dedicated or restricted to agricultural purposes and shall be under the jurisdiction of the conservation commission. The parcel dedicated under this section shall be of equal or greater size and suitability for agricultural purposes when compared to the parcel described in section 1 as determined by the department.

Approved January 17, 2008.

## **Chapter 6. AN ACT ESTABLISHING A SICK LEAVE BANK FOR PATRICIA HIRSCH, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.**

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



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## Chap. 6

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

Notwithstanding any general or special law or rule or regulation to the contrary, the department of mental retardation shall establish a sick leave bank for Patricia Hiersche, 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 Patricia Hiersche. Whenever Patricia Hiersche terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved January 17, 2008.

## Chapter 7. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF WESTBOROUGH.

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

**SECTION 1.** Section 2-2 of the charter of the town of Westborough, 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 second sentence and inserting in place thereof the following sentence:-The moderator shall, at the first session of each annual and special town meeting, appoint a deputy moderator to serve in the event of his absence or disability; provided, however, that the town meeting shall ratify the appointment.

**SECTION 2.** Section 2-8 of said charter is hereby amended by striking out the sixth sentence and inserting in place thereof the following sentence:-Additional copies of all warrants shall be available for distribution in the office of the town clerk before the date on which the town meeting is to convene and that complies with the General Laws.

**SECTION 3.** Section 3-2 of said charter is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The board of selectmen shall, appoint for fixed terms, the town accountant, the animal control officer, the town's representatives to the wastewater treatment plant board, the treasurer-collector, the constables and the election officers. The board of selectmen shall appoint, for fixed overlapping terms, the members of the board of appeals, registrars of voters, conservation commission, recreation commission, committee for soldiers' memorials, council on aging, country club operating committee, cultural council, emergency planning committee, historical commission, housing partnership committee, insurance advisory committee, open space preservation committee and the youth commission. The board of selectmen shall appoint, for terms not to exceed 3 years, a director of veterans' services, a town counsel, a town coordinator, a manager of public works, a fire chief and a police chief.

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## Chap. 7

The board of selectmen shall appoint members of other special or standing commissions or committees as may, from time to time, be established by the town meeting.

**SECTION 4.** Section 3-3 of said charter is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The moderator shall appoint for fixed overlapping terms members of the advisory finance committee, members of the personnel board, 2 members of the capital expenditures planning committee and such other committees special or standing as may from time to time be established with the moderator as appointing authority, such that the terms of office of as nearly an equal number of members as possible shall expire in each year.

**SECTION 5.** Subsection (a) of section 4-2 of said charter is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- He shall appoint the assessors, board of health, building inspector, wiring inspector, plumbing inspector and sexual harassment officer subject to the civil service laws, where applicable.

**SECTION 6.** Section 6-6 of said charter is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The capital expenditures planning committee shall be composed of the treasurer-collector; 1 member of the advisory finance committee, appointed by the advisory committee; 1 member of the planning board, appointed by the planning board; 1 member of the board of selectmen, appointed by the board; 1 member of the school committee, appointed by the school committee; and 2 additional members appointed by the moderator for staggered 3-year terms. Vacancies shall be filled for unexpired terms in the manner of the original appointments.

Approved January 17, 2008.

## Chapter 8. AN ACT VALIDATING CERTAIN ACTIONS TAKEN BY THE TOWN OF ABINGTON.

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

**SECTION 1.** Notwithstanding the provisions of section 10 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, all actions and proceedings taken by the town of Abington at the special town meeting held on November 5, 2007 and all votes cast by the voters of the town of Abington at the special town election held on November 10, 2007, including the votes to exempt from the provisions of section 21C of chapter 59 of the General Laws the amounts required to pay for the bonds to be issued in order to finance the replacement of doors and windows at the Abington High School and the acquisition of a parcel of land and any buildings thereon and the remodeling, original equipping and furnishing of any such buildings for use as a senior center, are hereby ratified, validated and confirmed in all respects, notwithstanding any defects or omissions in the calling of said town meeting or town election.

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## Chap. 8

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

Approved January 18, 2008.

## Chapter 9. AN ACT ESTABLISHING A SEWER SYSTEM CAPITAL IMPROVEMENT FUND FOR THE TOWN OF HADLEY.

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

**SECTION 1.** Notwithstanding any general or special law or rule or regulation to the contrary, the town of Hadley may establish a special account to be known as the Town of Hadley Sewer System Capital Improvement Fund. The purpose of the fund shall be to provide the revenue for the improvement and rehabilitation of the system to treat wastewater within the sewer system servicing the town of Hadley, the funding of engineering, construction and rehabilitation of the sewer treatment works, pumping stations and facilities serving the town of Hadley and to provide revenue to do all things necessary to correct, remedy, repair, prevent and prohibit any and all forms of infiltration or inflow from groundwater and other sources of leakage into pipes, facilities or the system. The special account shall be maintained by the treasurer of the town of Hadley in a banking institution doing business in the commonwealth and expenditures from the special account shall be made subject to appropriation initiated by the sewer commission and approved by a majority vote of the town meeting.

**SECTION 2.** Payments to such account shall be made by applicants for connection to the sewer system of the town who are constructing or erecting new buildings or developing land for industrial, commercial or residential uses. The method and amount of such payments from those private sources shall be as determined by a schedule of fees to be set by the sewer commission. The schedule shall provide for the method of determining the amount of each payment from such applicants based upon their anticipated sewer use as provided in section 3.

**SECTION 3.** The sewer commission may assess a sewer improvement fee for all new connections to the town sewer system, as determined by the sewer commission. Prior to assessing the sewer improvement fee, the sewer commission shall prepare a wastewater facilities upgrade and improvement plan, which shall include an engineer's estimate of construction costs. The sewer improvement fee shall be assessed by 1 of the methods authorized by section 15 of chapter 83 of the General Laws and shall not exceed the estimated costs of construction to improve the sewer system and to reduce infiltration and inflow into the system.

**SECTION 4.** There shall be a schedule of estimated costs of constructing the wastewater facilities described in section 1, expressed in dollars per square foot and established by the commission, which schedule shall not be established until the proposed

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schedule is first published in a newspaper in general circulation in the town of Hadley and considered at a public hearing held for such purpose.

**SECTION 5.** All sewer improvement fees collected shall be deposited into the special fund. Monies deposited into the special fund shall be used only for the purposes set forth in this act, as may be determined by the commission. The commission may accept grants or gifts for deposit into the fund. The treasurer of the town of Hadley may invest monies in the special account and the income and interest accruing shall inure to the benefit of the special account.

**SECTION 6.** The sewer system improvement fees imposed under this act shall be in addition to any other fees permitted by law including, without limitation, sewer connection fees, betterment fees, privilege fees and user charges.

**SECTION 7.** Additional appropriation may be made by a majority vote of the town meeting into this special account for the purpose of providing additional funds for the purposes set forth in this act.

**SECTION 8.** The sewer commission for the town of Hadley may make application for available state or federal government grants for the engineering, construction or rehabilitation of wastewater treatment works, pumping stations and facilities, and may pledge any and all such sums of money in the account, with the approval of the town meeting, for any such matching grants for engineering, construction or rehabilitation of wastewater treatment works, pumping stations and facilities.

**SECTION 9.** The town accountant shall file jointly with the sewer commission, the treasurer, the finance committee and the bureau of accounts, a written report relative to the special account. The report shall be made 120 days after the books of the account are closed each fiscal year.

**SECTION 10.** The sewer commission shall adopt rules and regulations for the implementation and administration of the special account and set fees in accordance with this act, or take any action relative thereto.

Approved January 18, 2008.

## **Chapter 10. AN ACT VALIDATING THE ACTIONS TAKEN AT A CERTAIN TOWN MEETING IN THE TOWN OF BURLINGTON.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, all acts and proceedings taken by the town of Burlington at the town meeting held on September 24, 2007, and all actions taken pursuant thereto are hereby ratified, validated and confirmed, to the same extent as if the warrant for that town meeting had been posted in full compliance with law.



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**Chap. 10**

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

Approved January 25, 2008.

**Chapter 11. AN ACT AUTHORIZING THE TOWN OF HOPEDALE TO ACQUIRE CERTAIN PROPERTY FOR MUNICIPAL PURPOSES.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Hopedale may acquire by gift, purchase or eminent domain, upon such terms and conditions as the board of selectmen determines, for highway department expansion purposes, the fee simple interest or less in land currently owned by the Grafton & Upton Railroad Company, said land consisting of 2.37 acres more or less and being shown as Lot 1 on "Plan of Land in Hopedale, MA, Owner Grafton & Upton Company" dated March 27, 2007 and prepared by Guerriere & Halnan, Inc. of Milford, MA. The plan is on file in the office of the town coordinator.

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

Approved January 25, 2008.

**Chapter 12. AN ACT FURTHER REGULATING THE MEMBERSHIP OF THE SOUTH ESSEX SEWERAGE BOARD.**

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

**SECTION 1.** The second paragraph of section 2 of chapter 339 of the acts of 1925 is hereby amended by striking out the first sentence, as appearing in section 1 of chapter 170 of the acts of 1985, and inserting in place thereof the following sentence:- The city engineer of the city of Salem, the director of public services of the city of Peabody and the director of engineering of the city of Beverly shall be members of said board.

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

Approved January 25, 2008.

**Chapter 13. AN ACT RELATIVE TO THE TRANSFER OF TITLE TO CONDOMINIUM UNITS.**

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

**SECTION 1.** Section 9 of chapter 183A of the General Laws, as appearing in the



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## Chapter 13.

2006 Official Edition, is hereby amended by striking out the last paragraph.

**SECTION 2.** Section 1 shall apply to all condominium unit deeds, whether recorded prior to, on or after the effective date of this act.

Approved January 25, 2008.

## **Chapter 14. AN ACT AUTHORIZING THE CITY OF EASTHAMPTON TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Easthampton may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises to One Northampton Street Enterprises, Inc., under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17.

One Northampton Street Enterprises, Inc. shall have 3 years after the effective date of this act within which to apply for the license. If, after 3 years, One Northampton Street Enterprises, Inc. has not applied for the license, the license shall remain with the local licensing authority which may then grant the license to an applicant at the same location under the conditions set forth in this act.

Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other location than the historic building located on the property at 1 Northampton Street shown as Lot 29 on assessors' map 51 and known as Old Memorial Hall. The license may be granted by the licensing authority at the same location if the applicant for the license files with the authority a statement in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

If the license granted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same location and under the same conditions as specified in the preceding paragraph.

Approved January 25, 2008.

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## **Chapter 15. AN ACT RELATIVE TO THE FINANCIAL CONDITION OF THE CITY OF SALEM.**

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

**SECTION 1.** (a) Notwithstanding any general or special law, city charter provision or local ordinance to the contrary, the city of Salem, with the approval of the commissioner of revenue, in this act called the commissioner, may borrow, at 1 time or from time to time, sums approved by the city council and then by the commissioner, but in no event in an amount in the aggregate more than \$1,000,000 for the purpose of maintaining and operating the public schools during fiscal year 2008. The commissioner may limit this borrowing to an amount or amounts less than the amount or amounts approved by the city council. Notwithstanding chapter 44A of the General Laws, bonds or notes issued under this act for school operating purposes may be issued for a term of not more than 7 years and shall be backed by the full faith and credit of the city and the bonds and notes shall be eligible to be issued as qualified bonds or notes. Indebtedness incurred under this act shall not be included in determining the statutory limit of indebtedness of the city under section 10 of chapter 44 of the General Laws but, except as provided in this act, shall otherwise be subject to said chapter 44. Amounts raised to pay indebtedness incurred under authority of this section shall be subject to section 21C of chapter 59 of the General Laws.

(b) The maturities of each issue of bonds or notes authorized under this act, including any refunding bonds, may, if approved by the city officers authorized to issue and approve these bonds or notes, and by the commissioner, 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.

(c) All proceeds of any loan authorized by this act shall be deposited in a separate fund which shall be set up on the books of the city of Salem and be maintained separate and apart from all other funds and accounts of the city. This fund shall be called the City of Salem Financial Stability Fund, in this act called the fund. The city council, with the approval of the commissioner, may authorize disbursements from the fund for purposes that the mayor considers appropriate to maintain and continue school operations. Funds borrowed for school operating purposes may be applied, with the approval of the director of accounts in the department of revenue, in this act called the director, as general revenue for purposes of section 23 of chapter 59 of the General Laws. The director may establish rules and procedures that he considers appropriate relating to disbursements from the fund and the reporting and accounting for these disbursements.

**SECTION 2.** As an alternative to borrowing authorized under section 1, and notwithstanding any general or special law, city charter provision or local ordinance to the contrary, the city of Salem may capitalize a sum not to exceed \$1,000,000, the amortization amount, and fund the amortization amount in equal or decreasing annual installments over

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## Chap. 15

a period starting with fiscal year 2009 and not exceeding 7 years. For fiscal year 2009, and fully subject to section 21C of chapter 59 of the General Laws, the board of assessors of the city of Salem, may, subject to the approval of the commissioner, deduct such portion of the amortization amount as the commissioner approves as consistent with this act, from the amount to be assessed under section 23 of chapter 59. Under the conditions imposed in this act, the assessors of the city of Salem may similarly deduct such portion of the amortized amount in any year until the amortization is completed not later than fiscal year 2015.

**SECTION 3.** Before the commissioner approves any borrowing authorized by section 1 or amortization authorized by section 2, the city of Salem shall accept section 37M of chapter 71 of the General Laws for the purpose of consolidating the financial functions of the school committee with those of the city. No revocation of this acceptance shall be valid or effective in any year during which a bond, note or an amortization amount authorized by this act remains outstanding.

**SECTION 4.** (a) With respect to fiscal year 2009, and in any other year in which bonds, notes or an amortization amount authorized under this act remain outstanding, not later than 10 days after the adoption of the city budget, or July 1, whichever is earlier, the assessors and mayor shall submit to the director a pro forma tax rate recapitulation for the following fiscal year, together with a copy of the adopted budget and such supporting revenue and expenditure information as the director may prescribe. The director shall ascertain whether the city budget for that fiscal year contains reasonable revenues from taxation and other sources to meet the appropriations and other amounts required by law to be raised under section 23 of chapter 59 of the General Laws, and the director shall report his findings to the mayor and city council. If the director determines that the city budget as presented would not permit certification of the tax rate for the applicable fiscal year, he may recommend further action to achieve a balanced budget. In such a case, no tax rate for the year shall be approved until submission of an annual tax rate recapitulation based on the actions the city has approved or taken to achieve a balanced budget.

(b) In any year during which bonds, notes or an amortization amount authorized under this act remain outstanding, the commissioner of revenue shall not certify the annual tax rate of the city of Salem until an audit report for the preceding fiscal year has been received and accepted by the director. The audit report shall be prepared by a certified public accountant in accordance with generally accepted auditing standards and shall include accompanying financial statements.

(c) In any year during which bonds, notes or an amortization amount authorized under this act remain outstanding, the city shall submit to the director 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 director may prescribe.

(d) In any year during which bonds, notes or an amortization amount authorized by this act remain outstanding, the city shall not issue any bond, note or other form of indebtedness without written notification to, and the approval of, the director.



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## Chap. 15

(e) The director may waive any reporting or filing requirements contained in this section.

**SECTION 5.** No official of the city of Salem, except in the case of an emergency involving the health and safety of the people or their property, shall knowingly expend or cause to be expended in any fiscal year any sum in excess of that official's departmental or other governmental unit's appropriation duly made in accordance with the law, nor commit the city, 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 city for any amounts expended in excess of an appropriation to the extent that the city 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 city 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 considered sufficient cause for removal.

**SECTION 6.** For the purposes of this act, the word "official" shall mean a permanent, temporary or acting city department head, including the superintendent of schools, and all members of municipal boards, committees, including the school committee, and commissions which recommend, authorize or approve the expenditure of funds, 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 7.** This act shall take effect upon its passage.

Approved January 31, 2008.

## Chapter 16. AN ACT EXEMPTING THE POSITIONS OF POLICE CHIEF AND FIRE CHIEF IN THE TOWN OF BURLINGTON FROM THE CIVIL SERVICE LAW.

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

**SECTION 1.** The positions of police chief and fire chief in the town of Burlington shall be exempt from chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of the persons holding the positions of police chief and fire chief in the town of Burlington on the effective date of this act.

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

Approved January 31, 2008.

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**Chapter 17. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JOHN SULLIVAN, 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 John Sullivan, an employee of the southeast division of the housing 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 John Sullivan. Whenever John Sullivan terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved January 31, 2008.

**Chapter 18. AN ACT AUTHORIZING THE TOWN OF BURLINGTON TO ISSUE 8 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES AND 2 ADDITIONAL LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

(a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Burlington may issue, within the Northwest Park Planned Development District, 8 additional licenses for the sale of all alcoholic beverages to be drunk on the premises and 2 additional licenses for the sale of wines and malt beverages to be drunk on the premises pursuant to section 12 of said chapter 138.

(b) Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority shall not approve the transfer of the licenses to any other location outside of the Northwest Park Planned Development District. A license may be re-issued by the licensing authority at the same location if an applicant files with the licensing authority

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a statement in writing, from the department of revenue that the license is in good standing with the department and that all applicable taxes have been paid.

(c) If a license granted under this section is cancelled, revoked or no longer in use, the license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority. The licensing authority may then grant that license to a new applicant at the same location and under the same conditions as specified in subsections (a) and (b).

Approved January 31, 2008.

**Chapter 19. AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF THROMBOSIS AWARENESS MONTH.**

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

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

Section 15EEEEEE. The governor shall annually issue a proclamation setting apart the month of November as Thrombosis Awareness Month and recommending that said month be observed in an appropriate manner by the people.

Approved February 1, 2008.

**Chapter 20. AN ACT AUTHORIZING THE TRANSFER OF THE FORMER FISHER HILL RESERVOIR IN THE TOWN OF BROOKLINE.**

*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 Brookline, 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 40F to 40J 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 may convey a certain parcel of state owned land in the town of Brookline to the town of Brookline; provided, however, that any deed conveying the parcel shall contain the restriction required pursuant to section 2. The parcel, known as the former Fisher Hill Reservoir, is located on the southwest side of Fisher avenue in the town of Brookline and the exact boundaries of the parcel shall be established prior to such convey-



ance by a survey commissioned by the commissioner. The consideration for said conveyance shall be the full and fair market value of the parcel as determined by the commissioner pursuant to an independent professional appraisal.

**SECTION 2.** The parcel described in section 1 shall be conveyed subject to a conservation restriction with the benefit of section 32 of chapter 184 of the General Laws limiting the use of the parcel to open space or active or passive recreation purposes; provided, however, that notwithstanding said restriction, the town of Brookline may use a certain portion of the parcel, not to exceed 12,000 square feet in area, for a municipal storage facility. If at any time the property ceases to be used for the purposes described in this section, the commissioner of capital asset management and maintenance shall give written notice to the town of the unauthorized use. The town shall, upon receipt of the notice, have 30 days to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is not thereafter established, the title to the parcel, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall revert to the commonwealth and any further disposition of the property shall be subject to Article XCVII of the Massachusetts Constitution and chapter 7 of the General Laws.

**SECTION 2A.** As a condition of the conveyance authorized in section 1, the town of Brookline shall transfer a 12,000 square foot parcel of land under the care, custody, management and control of the board of selectmen and dedicated for general municipal purposes to the conservation commission and shall dedicate such parcel for conservation or park purposes. If no suitable parcel can be transferred to the conservation commission, the town shall acquire a parcel of land or a conservation restriction upon private or public land as defined in section 31 of chapter 184 of the General Laws. Such land shall be dedicated or restricted to conservation purposes and shall be under the jurisdiction of the conservation commission. The parcel dedicated pursuant to this section shall be of equal or greater size and value for conservation or park purposes when compared to the 12,000 square foot portion of the parcel described in section 1.

**SECTION 3.** The inspector general shall review and approve the appraisal conducted pursuant to section 1. The review shall include an examination of the methodology utilized for the appraisal. Within 30 days of receiving the appraisal, the inspector general shall prepare a report of his review and file the report with the commissioner of capital asset management and maintenance. Within 15 days of receiving the inspector general's report and not later than 15 days before the execution of any agreement or other document relating to the conveyance, the commissioner shall submit it to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets.

**SECTION 4.** The town of Brookline shall be responsible for all costs and expenses, including, but not limited to, costs associated with any engineering, surveys, appraisals, and deed preparation related to the transfers and conveyances authorized in this act as such costs may be determined by the commissioner of capital asset management and maintenance.

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Upon conveyance of the parcel, the town shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel.

Approved February 6, 2008.

## **Chapter 21. AN ACT AUTHORIZING THE DENNIS WATER DISTRICT TO CONVEY CERTAIN LAND.**

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

**SECTION 1.** The Dennis Water District, acting by and through its board of water commissioners, may convey a certain parcel of land located off Old Chatham road, containing 2.877 acres, acquired for water supply purposes, to MHC Old Chatham L.L.C. This parcel is shown on a plan of land entitled, "Easement Plan of Land in Dennis, Mass", dated September 30, 1987, and prepared by S.R. Sweetser, Engineer.

**SECTION 2.** As consideration for the conveyance authorized in section 1, the MHC Old Chatham L.L.C. shall convey a certain parcel of undeveloped woodland located off Old Chatham road, containing 6.00 acres, more or less, to the Dennis Water District for watershed conservation purposes. This parcel is shown as Lot 2 on a plan of land entitled, "Plan of Land Prepared for MHC Old Chatham L.L.C.", dated October 25, 2005, and prepared by Foresight Land Services, Division of Brown Associates Inc.

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

Approved February 6, 2008.

## **Chapter 22. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF DALTON AS THE BENJAMIN-MURACA MEMORIAL BRIDGE.**

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

**SECTION 1.** The bridge No. D-01-005 on Route 8 spanning the Housatonic river in the town of Dalton shall be designated and known as the Benjamin-Muraca Memorial Bridge, in memory of Gary Thomas Benjamin and Patrick John Muraca, Vietnam veterans who were killed in action.

**SECTION 2.** The department of highways shall erect suitable markers bearing the designation in compliance with the standards of the department.

Approved February 6, 2008.



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## **Chapter 23. AN ACT RELATIVE TO THE DISPOSITION OF ABANDONED VESSELS.**

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

**SECTION 1.** Chapter 10 of the General Laws is hereby amended by inserting after section 35FF the following section:-

Section 35GG. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Abandoned Vessel Trust Fund to be used, without appropriation, by the department of conservation and recreation for the purpose of removing from the public waterways vessels on which title may be presumed to have been abandoned. Available revenues from the sale of abandoned vessels, as provided for in chapter 255, and appropriations from the General Fund shall be deposited into the trust fund. The proceeds of a sale of an abandoned vessel shall be held in trust for the former owner of record for a period of 2 years, after which time the funds shall become property of the trust. All monies deposited into the fund shall be expended exclusively for the purpose set forth in this section. No expenditure from the fund shall cause the fund to be in deficiency at the close of a fiscal year.

**SECTION 2.** Section 17 of chapter 255 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “action”, in line 4, the following words:— in the district court or.

**SECTION 3.** Said section 17 of said chapter 255, as so appearing, is hereby further amended by adding the following 2 paragraphs:-

No civil action shall be required for a lienholder to sell at public auction or dispose of a vessel on which a lien exists pursuant to section 14 or 14A and on which title is presumed to have been abandoned. Title to a vessel shall be presumed to have been abandoned if: (i) the lienholder sent a notice to owner of record by certified mail at his last known address and shall include, but not be limited to, the amount of the lien and any proposed disposition or sale of the vessel; (ii) the lienholder published a notice of the lien, which shall include, but not be limited to: a description of the vessel, a description of where the vessel is located and a proposed disposition or sale in a newspaper of general circulation in the city or town of the owner of record’s last known address for 3 consecutive days; and (iii) no response or reply was received from the owner of record within 90 days after the date of publication indicating an ability to satisfy the debt to the lienholder.

The lienholder may dispose of the vessel upon filing with the marine title division of the department of environmental police a notarized affidavit stating no reply was received from the owner of record within 90 days of the lienholder sending certified notice or within 90 days after publication pursuant to this section, whichever is later. The filing by the lienholder shall include legible copies of the affidavit and notice. If the lienholder of a vessel presumed to have been abandoned elects to hold a public auction of the vessel then, upon receipt of the notarized affidavit and notice, the marine title division, shall issue an abandonment of title document to the lienholder, if requested, and thereafter, shall issue new title documents to the purchaser of the vessel at public auction.

**SECTION 4.** Section 20 of said chapter 255, as so appearing, is hereby amended by adding the following sentence:- All proceeds of sales in excess of any liens thereon shall be placed in the Abandoned Vessel Trust Fund established in section 35GG of chapter 10.

Approved February 6, 2008.

**Chapter 24. AN ACT AUTHORIZING THE APPOINTMENT OF SPECIAL POLICE OFFICERS IN THE CITY OF EVERETT.**

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

**SECTION 1.** The mayor of the city of Everett may appoint, as he considers necessary, retired Everett police officers as special police officers for the purpose of performing police details or any police duties arising there from or during the course of police detail work, regardless of whether or not related to the detail work. The retired police officers shall have been regular Everett police officers and retired based on superannuation. The special police officers shall be subject to the same maximum age restriction as applied to regular police officers under chapter 32 of the General Laws. A special police officer shall pass a medical examination performed by a physician or other certified professional chosen by the city to determine that he is capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officer, prior to performing police details.

**SECTION 2.** Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws or to section 99A of chapter 41 of the General Laws.

**SECTION 3.** Special police officers, when performing the duties authorized under section 1, shall have the same power to make arrests and perform other police functions as regular police officers of the city of Everett.

**SECTION 4.** A special police officer shall be appointed for an indefinite term, subject to removal by the mayor at any time with 14 days written notice. Upon request, the mayor shall provide the reasons for removal in writing.

**SECTION 5.** Special police officers shall also be subject to the rules and regulations, policies and procedures and requirements of the mayor and the chief of police of the city of Everett, including the restrictions on the type of detail assignments, requiring medical examinations to determine continued capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications 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 before the city clerk of the city of Everett, 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

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section 111F of said chapter 41 to an incapacitated special police officer 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 an officer designated as a special police officer less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in a calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. In the event that the age limitation applicable to regular police officers serving a town is increased from the current 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided in this act to special police officers, shall terminate at such higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor shall they be eligible for any benefits under said section 85H of said chapter 32.

**SECTION 8.** Appointment as a special police officer shall entitle an individual appointed as such to assignment to any detail.

**SECTION 9.** Special police officers under this act shall be subject to the limitations on hours worked and on payments to retired employees under paragraph (b) of section 91 of chapter 32 of the General Laws.

**SECTION 10.** This act shall take effect upon its passage.

Approved February 8, 2008.

## **Chapter 25. AN ACT FURTHER REGULATING THE CITY OF MARLBOROUGH'S MEMBERSHIP IN A REGIONAL TRANSIT AUTHORITY.**

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

Notwithstanding any general or special law to the contrary, the city of Marlborough is hereby removed from membership in the Worcester Regional Transit Authority for the purpose of joining the MetroWest Regional Transit Authority.

Approved February 14, 2008.

## **Chapter 26. AN ACT DESIGNATING THE MONTH OF NOVEMBER AS LUNG CANCER AWARENESS MONTH.**

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

Chapter 6 of the General Laws is hereby amended by inserting after section 15DDDDD, inserted by chapter 173 of the acts of 2007, the following section:-



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Section 15EEEEEE. The governor shall annually issue a proclamation setting apart the month of November as Lung Cancer Awareness Month to increase public awareness of lung cancer as the leading cause of cancer death in the United States, leading to better education about the disease and thus earlier diagnoses, resulting in a higher chance of long-term survival and recommending that it be observed in an appropriate manner by the people.

Approved February 14, 2008.

## Chapter 27. AN ACT REORGANIZING CERTAIN EDUCATION AGENCIES.

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

**SECTION 1.** Section 17A of chapter 6 of the General Laws, as appearing in section 1 of chapter 19 of the acts of 2007, is hereby amended by inserting after the word “finance,” in the second sentence, the following words:- the secretary of education,.

**SECTION 2.** Section 2 of chapter 6A of the General Laws, as appearing in section 3 of chapter 19 of the acts of 2007, is hereby amended by inserting after the word “finance,” in the first sentence, the following word:- education,.

**SECTION 3.** Chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 14 [Repealed] the following section:-

### **§ 14A. Executive office of education**

Section 14A. (a) There shall be an executive office of education, which shall include the departments of early education and care, elementary and secondary education, and higher education.

(b) The executive office of education shall be under the supervision and control of a secretary of education, in this section called the secretary. The secretary shall be appointed by and serve at the pleasure of the governor, shall receive such salary as the governor determines, and shall devote full time to the duties of her office.

(c) The secretary shall have the following duties and powers: (1) analyze the present and future goals, needs, and requirements of public education in the commonwealth; (2) pursuant to chapters 15A, 15D, 69, and 75, review and approve mission statements and 5-year master plans encompassing each sector of the public education system, including early education and care, elementary and secondary education, and public higher education. These mission statements and master plans shall take into account the secretary’s analysis of goals, needs, and requirements and shall be designed to achieve a well coordinated system of education from early childhood through the university level and beyond; (3) approve the appointments of the commissioners of early education and care, elementary and secondary education, and higher education; (4) make recommendations to the secretary of administration and finance and the governor concerning the funding of education in the commonwealth and assist in preparing budget proposals to be put before the legislature on behalf of the boards and departments of early education and care, elementary and secondary

education, and higher education; (5) serve as the governor's advisor on educational issues and represent the interests of education in the governor's cabinet; and (6) serve as an ex officio voting member of the boards of early education and care, elementary and secondary education, and higher education and the board of trustees of the University of Massachusetts, and facilitate coordination and communication between and among those boards.

(d) The secretary may, subject to appropriation, appoint such other employees as she deems necessary to carry out her duties and responsibilities, shall be provided with adequate offices, and may expend sums for other necessary expenses of the executive office.

(e) Nothing in this section shall be construed as conferring any powers upon the secretary with respect to the boards or departments of early education and care, elementary and secondary education, and higher education except as set forth in this section or as otherwise expressly provided by law.

**SECTION 4.** The title of chapter 15 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "OF" the following words:-  
**ELEMENTARY AND SECONDARY.**

**SECTION 5.** Chapter 15, as so appearing, is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. There shall be within the executive office of education a department of elementary and secondary education, in this chapter called the department, which shall be under the supervision and management of the commissioner of elementary and secondary education, in this chapter called the commissioner.

**SECTION 6.** Section 1E of chapter 15, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following sentences:-  
There shall be in the department a board of elementary and secondary education, in this chapter called the board, which shall consist of the chairman of the student advisory council established under this section, the secretary of education, in this chapter called the secretary, or her designee, and 9 members appointed by the governor. The 9 members appointed by the governor shall consist of 1 representative of a labor organization selected by the governor from a list of 3 nominees provided by the Massachusetts State Labor Council, AFL-CIO; 1 representative of business or industry selected by the governor with a demonstrated commitment to education; 1 representative of parents of school children selected by the governor from a list of 3 nominees provided by the Massachusetts Parent Teachers Association; and 6 additional members.

**SECTION 7.** Section 1E of chapter 15, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following sentences:-  
Not more than two members of said board shall be employed on a full-time basis by any agency of the commonwealth. Of the 9 members appointed by the governor, 1 shall be appointed for a term that is coterminous with that of the governor. Each of the remaining 8 members shall be appointed for a term of 5 years. Vacancies shall be filled consistent with the requirements of section 10 of chapter 30.

**SECTION 8.** Section 1E of chapter 15, as so appearing, is hereby amended by inserting after the first sentence in the third paragraph the following sentence:- Members of the board who are employed on a full-time basis by the commonwealth shall be ineligible to serve as chairperson.

**SECTION 9.** Chapter 15, as so appearing, is hereby amended by striking out section 1F and inserting in place thereof the following section:-

**Section 1F. Commissioner of elementary and secondary education; appointment; duties; salary**

Section 1F. Whenever a vacancy occurs in the position of commissioner, the board shall by a two-thirds vote of all its members submit to the secretary, for the secretary's approval, a recommended candidate to fill that vacancy. The secretary may appoint the recommended candidate as commissioner. If the secretary declines to appoint the candidate, the board shall submit a new candidate for consideration. The secretary may appoint the commissioner only from candidates submitted to the secretary by the board.

The board may in its discretion by majority vote of all its members remove the commissioner. The commissioner shall be the secretary to the board, its chief executive officer and the chief state school officer for elementary and secondary education. The commissioner shall receive a salary to be determined by the board.

The board may delegate its authority or any portion thereof to the commissioner whenever in its judgment such delegation may be necessary or desirable. The commissioner shall exercise such delegated powers and duties with the full authority of the board.

**SECTION 10.** Section 1 of chapter 15A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the third sentence in the fourth paragraph, at line 32, the following sentence:- All mission statements shall be subject to review and approval by the secretary of education, in this chapter called the secretary.

**SECTION 11.** Section 2 of chapter 15A is hereby repealed.

**SECTION 12.** Section 3A of chapter 15A, as so appearing, is hereby amended by inserting after the words "in consultation with", in line 25, the following words:- the secretary and.

**SECTION 13.** Subsection (a) of section 4 of chapter 15A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

The board of higher education, hereinafter referred to in this chapter as the council or the board, shall be composed of 13 voting members, consisting of the secretary of education, ex officio, or her designee, 9 members appointed by the governor reflecting regional geographic representation, and 3 members chosen to represent public institutions of higher education.

**SECTION 14.** Subsection (a) of section 4 of chapter 15A, as so appearing, is hereby amended by striking out, in line 20, the words "selected by the chair of" and inserting in place thereof the following words:- as voted by.



**SECTION 15.** Subsection (a) of section 4 of chapter 15A, as so appearing, is hereby amended by inserting after the word “Art”, in line 26, the following words:- and Design.

**SECTION 16.** Subsection (a) of section 4 of chapter 15A, as so appearing, is hereby amended by striking out the last sentence.

**SECTION 17.** Subsection (b) of section 4 of chapter 15A, as so appearing, is hereby amended by striking out, in line 30, the word “Members” and inserting in place thereof the following words:- Three of the board members appointed by the governor shall be appointed for terms that are coterminous with that of the governor. The secretary shall serve on the board while she holds the position of secretary. The remaining members.

**SECTION 18.** Subsection (b) of section 4 of chapter 15A, as so appearing, is hereby amended by inserting after the word “consecutive”, in line 46, the following word:- full.

**SECTION 19.** Subsection (b) of section 4 of chapter 15A, as so appearing, is hereby amended by inserting after the sixth sentence, in line 47, the following sentence:- Service for a term of less than 3 years, resulting from an initial appointment or an appointment for the remainder of an unexpired term, shall not be counted as a full term.

**SECTION 20.** Subsection (b) of section 4 of chapter 15A, as so appearing, is hereby amended by inserting after the eighth sentence, in line 53, the following sentence:- Vacancies shall be filled consistent with the requirements of section 10 of chapter 30.

**SECTION 21.** Subsection (d) of section 4 of chapter 15A, as so appearing, is hereby amended by inserting after the second sentence, in line 63, the following sentence:- Members of the board who are employed on a full-time basis by the commonwealth shall be ineligible to serve as chairperson.

**SECTION 22.** Subsection (d) of section 4 of chapter 15A, as so appearing, is hereby amended by striking out, in the third sentence, the words “5 regularly scheduled meetings during a calendar year” and inserting in place thereof the following words:- 4 regularly scheduled meetings during an academic year.

**SECTION 23.** Subsection (g) of section 4 of chapter 15A, as so appearing, is hereby amended by striking out, in line 79, the word “Six” and inserting in place thereof the following word:- Seven; and by striking out, in line 80, the number “6” and inserting in place thereof the following number:- 7.

**SECTION 24.** Chapter 15A is further amended by striking out section 6 and inserting in place thereof the following section:-

**§ 6. Department of higher education; Commissioner; other employees; appointments; salaries; powers and duties**

Section 6. There shall be within the executive office of education a department of higher education, in this chapter called the department.

The council shall, whenever a vacancy may occur, by a two-thirds vote of all its voting members, submit to the secretary, for the secretary’s approval, a recommended candidate to serve as the commissioner of higher education, in this chapter called the commissioner. The secretary may appoint the recommended candidate as commissioner. If the

secretary declines to appoint the candidate, the council shall submit a new candidate for consideration. The secretary may appoint the commissioner only from candidates submitted to the secretary by the council.

The commissioner shall be the executive and administrative head of the department. The commissioner shall serve at the pleasure of the council and may be removed by a majority vote of all its members. The commissioner shall not be subject to chapter 31 or to section 9A of chapter 30.

The commissioner shall be the secretary to the council and its chief executive officer and the chief school officer for higher education. The commissioner shall be responsible for carrying out the policies established by the council. The council may delegate its authority or any portion thereof to the commissioner whenever in its judgment such delegation may be necessary or desirable. The commissioner shall exercise any such powers or duties delegated with the full authority of the council in any matter concerning the system of public institutions of higher education subject to the direction and approval of the council.

The commissioner shall devote her full time during business hours to the duties of her office and shall, subject to appropriation, receive such salary as the council may determine. The commissioner may, subject to appropriation, appoint such other employees as she deems necessary to carry out her duties and responsibilities, shall be provided with adequate offices, and may expend sums for other necessary expenses of the department.

**SECTION 25.** Section 7 of chapter 15A, as so appearing, is hereby amended by striking out, in the first sentence, the words “adopt mission statements” and inserting in place thereof the following words:- submit mission statements for review and approval by the secretary.

**SECTION 26.** Section 7 of chapter 15A, as so appearing, is hereby amended by inserting before the word “council”, in lines 10 and 12, the following words:- secretary and the.

**SECTION 27.** Section 7 of chapter 15A, as so appearing, is hereby amended by striking out, in the second paragraph, the third sentence and inserting in place thereof the following sentence:- All institutional mission statements, as developed and submitted by boards of trustees, shall be subject to approval by the secretary, in consultation with the council.

**SECTION 28.** Section 7 of chapter 15A, as so appearing, is hereby amended by striking out, in the third paragraph, the second sentence and inserting in place thereof the following sentence:- The secretary, in consultation with the council, may, as she deems necessary, undertake or cause to be undertaken revisions of said statements.

**SECTION 29.** Section 7 of chapter 15A, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words “board of higher education, for its approval,” and inserting in place thereof the following words:- secretary and the board of higher education.

**SECTION 30.** Section 7 of chapter 15A, as so appearing, is hereby amended by striking out, in the fourth paragraph, the third, fourth, fifth, and sixth sentences and inserting



in place thereof the following sentences:- Said proposal, upon its receipt, shall be transmitted to the secretary of administration and finance, the chairs of the house and senate committees on ways and means, and the house and senate chairs of the joint committee on higher education. The secretary, in consultation with the council, shall have the authority to approve, reject, or propose amendments to said plan. Proposed amendments shall be returned to the institution's board of trustees.

**SECTION 31.** Subsection (a) of section 7A of chapter 15A, as so appearing, is hereby amended by inserting after the word "institutions", in line 6, the following words:- and the secretary.

**SECTION 32.** Subsection (b) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out, in line 23, the word "kindergarten" and inserting in place thereof the following words:- early childhood.

**SECTION 33.** Subsection (e) of section 7A of chapter 15A, as so appearing, is hereby amended by inserting after the word "institutions", in line 42, the following words:- and the secretary.

**SECTION 34.** Subsection (e) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out, in line 47, the words "education, arts and humanities" and inserting in place thereof the following words:- higher education.

**SECTION 35.** Subsection (f) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out, in the third sentence, the words "joint committee on education, arts and humanities" and inserting in place thereof the following words:- joint committee on higher education.

**SECTION 36.** Subsection (g) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out the word "chancellor" and inserting in place thereof the following word:- commissioner.

**SECTION 37.** Subsection (h) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out the words "board shall structure its" and inserting in place thereof the following words:- commissioner shall structure her.

**SECTION 38.** Subsection (i) of section 7A of chapter 15A, as so appearing, is hereby amended by inserting after the words "in consultation with", in the first sentence, the following words:- the secretary and.

**SECTION 39.** Subsection (i) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out, in lines 78 and 79, the word "kindergarten" and inserting in place thereof the following words:- early childhood.

**SECTION 40.** Subsection (i) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out, in the last sentence, the word "may" and inserting in place thereof the following word:- shall.

**SECTION 41.** Subsection (j) of section 7A of chapter 15A, as so appearing, is hereby amended by striking out, in the first sentence, the words "The university shall" and

inserting in place thereof the following words:- The university, in consultation with the secretary, shall.

**SECTION 42.** Subsection (j) of section 7A of chapter 15A, as so appearing, is hereby amended by inserting after the words “annually to the”, in the second sentence, the following words:- secretary, the.

**SECTION 43.** Clause (b) of section 9 of chapter 15A, as so appearing, is hereby amended by striking out the third, fourth, fifth, and sixth sentences and inserting in place thereof the following sentences:- The council may, after a public hearing and submission of a written report to the clerks of the house of representatives and the senate, by a two-thirds vote of the full membership of the council, recommend to the secretary to consolidate, discontinue, or transfer divisions, schools, stations, branches or institutions as the council deems advisable. If, in the opinion of the council, a college campus should be closed or consolidated, the council shall make that recommendation to the secretary and the secretary, if she approves the closure recommendation, shall submit such proposal to the secretary of administration and finance, the house and senate chairs of the joint committee on higher education, and the chairs of the house and senate ways and means committees. The joint committee on higher education may, within 30 days of the receipt of a proposal, hold a public hearing on its merits. The council shall not close a college without the authorization of the secretary and the general court;.

**SECTION 44.** Clause (c) of section 9 of chapter 15A, as so appearing, is hereby amended by striking out, in lines 30 and 31, the words “secretary of economic development and his staff” and inserting in place thereof the following words:- secretary of labor and workforce development, the secretary of housing and economic development, and their respective staffs.

**SECTION 45.** Clause (d) of section 9 of chapter 15A, as so appearing, is hereby amended by striking out, in line 31, the words “and adopt”.

**SECTION 46.** Clause (e) of section 9 of chapter 15A, as so appearing, is hereby amended by striking out, in line 32, the word “approve” and inserting in place thereof the following word:- review.

**SECTION 47.** Clause (f) of section 9 of chapter 15A, as so appearing, is hereby amended by inserting before the word “prepare”, in line 33, the following words:- subject to the secretary’s approval,.

**SECTION 48.** Clause (f) of section 9 of chapter 15A, as so appearing, is hereby amended by inserting after the words “clause (c)”, in line 35, the following word:- and.

**SECTION 49.** Section 9 of chapter 15A, as so appearing, is hereby amended by striking out clause (l) and inserting in place thereof the following new clause:-

(l) require each institution in the system to submit to the council and the secretary a 5-year plan, which plan shall be updated annually and shall be subject to the secretary’s approval, in consultation with the council;

**SECTION 50.** Clause (n) of section 9 of chapter 15A, as so appearing, is hereby amended by striking out, in lines 90 and 91, the word “chancellor” and inserting in place thereof the following word:- commissioner.

**SECTION 51.** Clause (cc) of section 9 of chapter 15A, as so appearing, is hereby amended by inserting after the first sentence the following sentences:- Such assistance shall consist of full or partial loans to students in need of assistance. Repayment shall commence within six months of graduation or termination of studies; provided, that no repayment schedule shall exceed a term of ten years. Monies received in repayment shall be retained by the council to provide the no interest loans and to provide for the administration of the programs without further appropriation; provided, however, that not more than \$775,000 of the monies shall be expended annually for the administration of the program. The Massachusetts state scholarship office shall establish guidelines to govern said program which shall include, but not be limited to, eligibility requirements for students, eligibility requirements for participating institutions, terms of payment, deferment options, provisions for default, and a maximum and minimum loan award as determined by an indexing system;

**SECTION 52.** Clause (ee) of section 9 of chapter 15A, as so appearing, is hereby amended by striking out, in line 204, the words “2 of this act” and inserting in place thereof the following words:- 22 of this chapter.

**SECTION 53.** Clause (ff) of section 9 of chapter 15A, as so appearing, is hereby amended by inserting after the words “to section”, in line 207, the following word:- 7.

**SECTION 54.** Clause (gg) of section 9 of chapter 15A, as so appearing, is hereby amended by striking out, in lines 211 through 224, the second, third, fourth, and fifth sentences.

**SECTION 55.** Section 9 of chapter 15A, as so appearing, is hereby amended by striking out, in line 244, the words “education, arts and humanities” and inserting in place thereof the following words:- higher education.

**SECTION 56.** Section 15 of chapter 15A, as so appearing, is hereby amended by striking out, in line 1, the words “The council shall” and inserting in place thereof the following words:- In accordance with the funding formulas referenced in section 15B of this chapter, the secretary, in consultation with the council and with the board of trustees for the university of Massachusetts, shall.

**SECTION 57.** Section 15 of chapter 15A, as so appearing, is hereby amended by striking out, in line 10, the words “The council shall” and inserting in place thereof the following words:- The secretary, in consultation with the council and with the board of trustees for the university of Massachusetts, shall.

**SECTION 58.** Section 15 of chapter 15A, as so appearing, is hereby amended by striking out, in line 14, the word “council” and inserting in place thereof the following word:- secretary.

**SECTION 59.** Section 15 of chapter 15A, as so appearing, is hereby amended by striking out, in line 16, the word “it” and inserting in place thereof the following word:- she.



**SECTION 60.** Section 15B of chapter 15A, as so appearing, is hereby amended by inserting before the word “council”, in lines 6, 10, 11, and 17, the following words:- secretary and the.

**SECTION 61.** Section 15B of chapter 15A, as so appearing, is hereby amended by inserting after the words “boards of trustees”, in line 23, the following words:- and the secretary.

**SECTION 62.** Section 15B of chapter 15A, as so appearing, is hereby amended by inserting after the words “board of higher education”, in line 25, the following words:- and the secretary.

**SECTION 63.** Section 15B of chapter 15A, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

The council shall review the institutional budget requests prepared by each board of trustees and shall submit comments and recommendations concerning those requests to the secretary. The secretary shall then prepare a comprehensive budget request for the public higher education system, with comments and recommendations, for use by the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on higher education. In the case of the university, it shall be the responsibility of the trustees to submit comments and recommendations regarding the budget requests of individual campuses within the university system to the secretary and the board of higher education. In the case of any institution, or the university, having failed to submit data according to the schedule established under clause (s) of the first paragraph of section 9, the secretary may withhold transmittal of the budget request from that board of trustees to the secretary of administration and finance and committees. The comments and recommendations attached by the secretary and the board of higher education for each state and community college and by the board of trustees of the university for each university campus, shall be consistent with the funding formulas, statewide needs, performance measurement standards, as well as the mission statements and 5-year plans for individual campuses and the public higher education system as a whole. They shall also reflect analysis by the respective boards for each campus regarding progress made by the campuses in fulfilling strategic plans including, but not limited to, significant achievements and progress in addressing any previously identified deficiencies. The comments and recommendations shall be made available to the individual institutions and campuses before submission to the secretary of administration and finance and legislative committees with sufficient time allowed to provide opportunity for comment and response by those institutions and campuses. In reviewing the various estimates and requests, the secretary and the council may comment on the overall level of funding for the system of public higher education and may comment regarding funding priorities among segments of the system of public higher education and among the various institutions. The secretary shall submit her recommendations and comments to the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on higher education. The secretary shall include in addition to the information provided by the boards of trustees all

program costs which are to be borne by any other source other than the commonwealth, including such sources as federal financing or federal research, demonstration or training grants, community contributions and other grants, endowments or trusts.

**SECTION 64.** Section 21 of chapter 15A, as so appearing, is hereby amended by inserting before the word “board”, in line 1, the following word:- a.

**SECTION 65.** Section 21 of chapter 15A, as so appearing, is hereby amended by striking out, in line 49, the word “calendar” and inserting in place thereof the following word:- academic.

**SECTION 66.** Section 21 of chapter 15A, as so appearing, is hereby amended by striking out, in lines 53 and 54, the words “higher education coordinating”.

**SECTION 67.** Clause (a) of section 22 of chapter 15A, as so appearing, is hereby amended by inserting before the word “council”, in line 6, the following words:- secretary and the.

**SECTION 68.** Section 22 of chapter 15A, as so appearing, is hereby amended by striking out clause (l) and inserting in place thereof the following new clause:- (l) submit a 5-year master plan to the secretary and the council, which plan shall be subject to the secretary’s approval, in consultation with the council, and shall be updated annually according to a schedule determined by the secretary and the board in consultation with the board of trustees;

**SECTION 69.** Section 22 of chapter 15A, as so appearing, is hereby amended by striking out clause (m) and inserting in place thereof the following new clause:- (m) submit financial data and other data as required by the secretary and the board of higher education for the careful and responsible discharge of their purposes, functions, and duties. The data shall be reported annually to the secretary and the board of higher education according to a schedule determined by the secretary and the board of higher education in consultation with the board of trustees. The board of trustees shall also submit an annual institutional spending plan to the secretary and the council for review, comment, and transmittal to the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on higher education. Spending plans shall be reported using a standardized format developed by the secretary, in consultation with the board of higher education and the institutional boards of trustees, in a manner to allow comparison of similar costs between the various institutions of the commonwealth. Said plan shall include an account of spending from all revenue sources including but not limited to, trust funds;

**SECTION 70.** Clause (n) of section 22 of chapter 15A, as so appearing, is hereby amended by striking out, in lines 60 and 61, the words “council for its approval” and inserting in place thereof the following words:- secretary and the council for approval.

**SECTION 71.** Section 22 of chapter 15A, as so appearing, is hereby amended by striking out clause (o) and inserting in place thereof the following new clause:- (o) submit an institutional self-assessment report to the secretary and the council, which the board of trustees shall make public and available at the institution. Said assessment report shall be

used to foster improvement at the institution by the board of trustees and shall include information relative to the institution's progress in fulfilling its approved mission. Said report shall be submitted annually to the secretary and the board of higher education according to a schedule determined by the secretary and said board in consultation with the board of trustees.

**SECTION 72.** Clause (p) of section 22 of chapter 15A, as so appearing, is hereby amended by striking out, in line 72, the words "board of higher education, for its approval" and inserting in place thereof the following words:- secretary and the board of higher education, for approval.

**SECTION 73.** Section 23 of chapter 15A, as so appearing, is hereby amended by inserting before the word "council", in lines 2 and 5, the following words:- secretary and the.

**SECTION 74.** Section 2 of chapter 15D of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "be", in the first sentence, the following words:- in the executive office of education.

**SECTION 75.** Section 2 of chapter 15D, as so appearing, is amended by striking out, in lines 13 and 14, the words "control of a board of early education and care" and inserting in place thereof the following words:- management of the commissioner of early education and care, in this chapter called the commissioner.

**SECTION 76.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by striking out the first sentence and inserting in place thereof the following sentence:- The board shall consist of 11 members, and shall include: the secretary of education, ex-officio, in this chapter called the secretary, or her designee; the secretary of health and human services, ex-officio; and 9 members appointed by the governor.

**SECTION 77.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by striking out, in line 33, the word "and".

**SECTION 78.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by inserting after the word "psychology", in lines 34 and 35, the following words:- ; and 3 shall be additional members.

**SECTION 79.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by striking out, in line 47, the word "Five" and inserting in place thereof the following word:- Six.

**SECTION 80.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by striking out, in line 47, the number "5" and inserting in place thereof the following number:- 6.

**SECTION 81.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by striking out, in the fourth paragraph, the first sentence and inserting in place thereof the following sentences:- Of the 9 members appointed by the governor, 1 shall be appointed for a term that is coterminous with that of the governor. Each of the remaining 8 members shall be appointed for a term of 5 years. Vacancies shall be filled consistent with the requirements of section 10 of chapter 30.



**SECTION 82.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by inserting after the word “terms.”, in line 50, the following sentence:- Service for a term of less than 3 years, resulting from an initial appointment or an appointment for the remainder of an unexpired term, shall not be counted as a full term.

**SECTION 83.** Subsection (b) of section 3 of chapter 15D, as so appearing, is amended by striking out, in the fifth paragraph, the third sentence and inserting in place thereof the following sentences:- Not more than 2 members of the board shall be employed on a full-time basis by any agency of the commonwealth. Members of the board who are employed on a full-time basis by the commonwealth shall be ineligible to serve as chairperson.

**SECTION 84.** Subsection (e) of section 3 of chapter 15D, as so appearing, is amended by striking out, in the first sentence, the words “arts and humanities.”.

**SECTION 85.** Section 4 of chapter 15D, as so appearing, is amended by striking out the first paragraph and inserting in place thereof the following paragraphs:-

Section 4. The board shall by a 2/3 vote of its members submit to the secretary, for the secretary’s approval, a recommended candidate to serve as the commissioner of early education and care, in this chapter called the commissioner. The secretary may appoint the recommended candidate as commissioner. If the secretary declines to appoint the candidate, the board shall submit a new candidate for consideration. The secretary may appoint the commissioner only from candidates submitted to the secretary by the board.

The board may in its discretion by majority vote of its members remove the commissioner. The commissioner shall be the secretary to the board and its chief executive officer and shall be the executive and administrative head of the department. The commissioner shall receive a salary to be determined by the board.

**SECTION 86.** Section 4 of chapter 15D, as so appearing, is amended by inserting after the second paragraph the following paragraphs:-

The commissioner shall propose a budget to the board; said budget shall reflect the goals and objectives of the board and the secretary. The board shall review and make recommendations regarding the budget to the secretary. The secretary shall then prepare and submit a budget request on behalf of the department to the house and senate committees on ways and means, the joint committee on education, and the secretary of administration and finance.

The commissioner shall analyze the present and future goals, needs and requirements of early childhood education and care in the commonwealth and recommend to the board comprehensive means to achieve a well-coordinated system of high achievement in early childhood education and care in the commonwealth. Following consultation with the board, the commissioner shall prepare and submit to the secretary, for the secretary’s review and approval, a 5-year master plan for achieving such a coordinated system. The master plan along with an annual progress report shall reflect the goals and standards established by the board and the secretary.

The board may delegate its authority or any portion thereof to the commissioner whenever in its judgment such delegation may be necessary or desirable. The commissioner shall exercise such delegated powers and duties with the full authority of the board.

The commissioner may, subject to appropriation, appoint such other employees as she deems necessary to carry out her duties and responsibilities, shall be provided with adequate offices, and may expend sums for other necessary expenses of the department.

**SECTION 87.** The title of chapter 69 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the words "DEPARTMENT OF" the following words:- **ELEMENTARY AND SECONDARY.**

**SECTION 88.** The title of section 1A of chapter 69, as so appearing, is hereby amended by inserting after the word "of" the following words:- elementary and secondary.

**SECTION 89.** Section 1A of chapter 69, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Section 1A. There shall be within the executive office of education a department of elementary and secondary education, hereinafter called the department, which shall be under the supervision and management of a commissioner of elementary and secondary education, hereinafter called the commissioner. Said commissioner shall be appointed pursuant to section 1F of chapter 15 and shall devote full time to the duties of the office.

**SECTION 90.** Section 1A of chapter 69, as so appearing, is hereby amended by inserting after the words "board of", in line 6, the following words:- elementary and secondary.

**SECTION 91.** Section 1A of chapter 69, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The commissioner shall propose a budget to the board; said budget shall reflect the goals and objectives of the board and the secretary of education, in this chapter called the secretary. The board shall review and make recommendations regarding the budget to the secretary. The secretary shall then prepare and submit a budget request on behalf of the department to the house and senate committees on ways and means, the joint committee on education, and the secretary of administration and finance.

**SECTION 92.** Section 1A of chapter 69, as so appearing, is hereby amended by striking out, in line 28, the words "shall prepare" and inserting in place thereof the following words:- shall, in consultation with the board, prepare and submit to the secretary for the secretary's review and approval.

**SECTION 93.** Section 1A of chapter 69, as so appearing, is hereby amended by inserting after the word "board", in line 37, the following words:- and the secretary.

**SECTION 94.** The title of section 1B of chapter 69, as so appearing, is hereby amended by inserting after the words "Board of" the following words:- elementary and secondary.

**SECTION 95.** Section 1B of chapter 69, as so appearing, is hereby amended by striking out, in line 139, the words ", arts, and humanities".



**SECTION 96.** Section 1D of chapter 69, as so appearing, is hereby amended by striking out, in line 48, the words “, arts, and humanities”.

**SECTION 97.** Section 1 of chapter 75 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the words “provided in”, in line 13, the following words:- section 14A of chapter 6A,.

**SECTION 98.** Section 1A of chapter 75, as so appearing, is hereby amended by striking out, in line 3, the words “and seventeen” and inserting in place thereof the following words:- 1 member shall be the secretary of education, ex officio, in this chapter called the secretary, or her designee, and 16.

**SECTION 99.** Section 1A of chapter 75, as so appearing, is hereby amended by striking out, in line 31, the word “Members” and inserting in place thereof the following words:- Appointive members.

**SECTION 100.** Section 1A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 37, the word “calendar” and inserting in place thereof the following word:- academic.

**SECTION 101.** Section 1A of chapter 75, as so appearing, is hereby amended by striking out, in the fourth paragraph, the sixth and seventh sentences and inserting in place thereof the following sentences:- The governor shall appoint the chair of the board of trustees, who shall serve at the governor’s pleasure. Members of the board who are employed on a full-time basis by the commonwealth shall be ineligible to serve as chair.

**SECTION 102.** Section 1A of chapter 75, as so appearing, is hereby amended by striking out, in line 57, the words “board of higher education” and inserting in place thereof the following words:- secretary and to the board of higher education, in this chapter called the council,.

**SECTION 103.** Section 1A of chapter 75, as so appearing, is hereby amended by striking out, in lines 91 to 93, clause (l) and inserting in place thereof the following new clause:- (l) submit a 5-year master plan to the secretary and the council, which plan shall be subject to the secretary’s approval, in consultation with the council, and shall be updated annually on or before the first Wednesday of December in each year.

**SECTION 104.** Section 1A of chapter 75, as so appearing, is hereby amended by inserting before the word “council”, in line 94, the following words:- secretary and the.

**SECTION 105.** Section 1A of chapter 75, as so appearing, is hereby amended by inserting after the word “develop”, in line 96, the following words:- and submit to the secretary and the board of higher education, for approval,.

**SECTION 106.** Section 1A of chapter 75, as so appearing, is hereby amended by inserting before the word “board”, in line 99, the following words:- secretary and the.

**SECTION 107.** Section 1A of chapter 75, as so appearing, is hereby amended by striking out, in line 126, the words “council for its” and inserting in place thereof the following words:- secretary and the council for.

**SECTION 108.** Section 1A of chapter 75, as so appearing, is hereby amended by inserting before the word “council”, in line 128, the following words:- secretary and the.

**SECTION 109.** Section 1A of chapter 75, as so appearing, is hereby amended by striking out, in line 132, the word “council” and inserting in place thereof the following word:- secretary.

**SECTION 110.** Section 2 of chapter 75, as so appearing, is hereby amended by striking out, in line 15, the words “in the board of higher education” and inserting in place thereof the following words:- of the secretary and the board of higher education as set forth in this chapter, chapter 15A, and other applicable provisions of the General Laws.

**SECTION 111.** Section 7 of chapter 75, as so appearing, is hereby amended by inserting after the word “governor”, in line 2, the following word:- , secretary,

**SECTION 112.** Notwithstanding any general or special law to the contrary, any appointive member currently serving on the Board of Education upon passage of this act shall continue to serve in the following manner. Thomas Fortmann and Sandra Stotsky shall serve until June 30, 2010. S. Paul Reville and the member in the seat currently held by the parent representative shall serve until June 30, 2009. The member in the seat currently held by the representative of a labor organization and the member in the seat currently held by the representative of business or industry shall serve until June 30, 2008. The Governor shall appoint 3 additional members; 2 shall serve until June 30, 2012 and 1 shall serve coterminously with the Governor. All board members shall be eligible for reappointment unless such reappointment is limited under the provisions of section 1E of chapter 15 of the General Laws.

**SECTION 113.** Notwithstanding any general or special law to the contrary, all appointive members currently serving on the Board of Early Education and Care upon passage of this act shall continue to serve for the remainder of their appointed terms. Of the three additional members to be appointed by the Governor, 1 shall serve until March 11, 2009; 1 shall serve until March 11, 2012 and 1 shall serve coterminously with the Governor. All board members shall be eligible for reappointment unless such reappointment is limited under the provisions of section 3(b) of chapter 15D of the General Laws.

**SECTION 114.** Notwithstanding any general or special law to the contrary, all appointive members currently serving on the Board of Higher Education upon passage of this act shall continue to serve for the remainder of their appointed terms. The three additional members to be appointed by the Governor shall be appointed for terms coterminous with that of the Governor. All board members shall be eligible for reappointment unless such reappointment is limited under the provisions of section 4(b) of chapter 15A of the General Laws.

**SECTION 115.** Notwithstanding section 98 of this act and any general or special law to the contrary, the secretary of education shall not become an ex officio voting member of the board of trustees for the University of Massachusetts until an opening next arises on

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that board due to the departure or the expiration of the term of a presently sitting board member.

**SECTION 116.** Whenever the following former names of boards, departments, or officers appear in any general or special law, regulation, contract or other document, they shall be taken to mean the following boards, departments and officers, respectively:

(a) the board of education, the board of elementary and secondary education;

(b) the department of education, the department of elementary and secondary education;

(c) the commissioner of education; the commissioner of elementary and secondary education;

(d) the chancellor of higher education, the commissioner of higher education.

**SECTION 117.** This act shall take effect as soon as it has the force of law under subsection (c) of section 2 of Article LXXXVII of the Amendments to the Constitution.

*The foregoing was filed by the Governor with the General Court on January 10, 2008. Not having been disapproved in either the Senate or the House of Representatives and the General Court not having been prorogued, after 60 days it has the force of law as provided in Article LXXXVII of the Amendments to the Constitution.*

## **Chapter 28. AN ACT FURTHER REGULATING THE TOWN ADMINISTRATOR IN THE TOWN OF SOMERSET.**

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

**SECTION 1.** Section 1 of chapter 7 of the acts of 1984 is hereby amended by striking out the last sentence.

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

Approved February 15, 2008.

## **Chapter 29. AN ACT ESTABLISHING A SICK LEAVE BANK FOR THOMAS D'INTINOSANTO, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of mental retardation, 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 or rule or regulation to the contrary, the department of mental retardation shall establish a sick leave bank for Thomas D'Intinosanto, 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 Thomas D'Intinosanto. Whenever Thomas D'Intinosanto terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved February 15, 2008.

## **Chapter 30. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SUZANNE L. SOUCIE, 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 Suzanne L. Soucie, 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 Suzanne L. Soucie. Whenever Suzanne L. Soucie terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved February 15, 2008.

## **Chapter 31. AN ACT AUTHORIZING BRENDAN GORMLEY TO TAKE THE CIVIL SERVICE EXAMINATION FOR FIREFIGHTER IN THE TOWN OF ARLINGTON NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.**

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

**SECTION 1.** Notwithstanding chapter 31 of the General Laws or any other general

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or special law to the contrary regulating the maximum age of applicants for appointment as a firefighter, Brendan Gormley of the town of Arlington shall be eligible to take the open competitive examination for appointment as a firefighter in said town and, if he meets all other requirements, shall be eligible for certification and appointment to such position.

**SECTION 2.** This act shall take effect upon its passage and shall expire on December 31, 2012.

Approved February 15, 2008.

## **Chapter 32. AN ACT DESIGNATING MAY 24 AS PHENYLKETONURIA AWARENESS DAY.**

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

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

Section 15FFFFF. The governor shall annually issue a proclamation setting apart May 24 as Phenylketonuria Awareness Day, in recognition of the lifelong struggles of people diagnosed with phenylketonuria, and recommending that the day be observed in an appropriate manner by the people.

Approved February 15, 2008.

## **Chapter 33. AN ACT DESIGNATING A CERTAIN RINK IN THE TOWN OF FRANKLIN AS THE STAFF SERGEANT ROBERT PIRELLI VETERANS MEMORIAL RINK.**

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

The Veterans Memorial rink in the town of Franklin shall be designated and known as the Staff Sergeant Robert Pirelli Veterans Memorial Rink, in memory of Robert Ryan Pirelli who was killed in the line of duty in Iraq. The department of conservation and recreation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved February 15, 2008.

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**Chapter 34. AN ACT RELATIVE TO A CERTAIN MOTOR VEHICLE  
REGISTRATION PLATE.**

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

Notwithstanding any general or special law or rule or regulation to the contrary, the department of motor vehicles shall issue to Dexter Olsson of the town of Plymouth registration plate number 1620. Dexter Olsson may transfer said plate to one of his direct descendants by will.

Approved February 15, 2008.

**Chapter 35. AN ACT AUTHORIZING THE TOWN OF COHASSET WATER  
DEPARTMENT TO PROVIDE WATER SERVICES TO ENTITIES  
OUTSIDE COHASSET.**

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

**SECTION 1.** Section 2 of chapter 128 of the acts of 1886 is hereby amended by striking out the last paragraph, added by section 1 of chapter 436 of the acts of 1998, and inserting in place thereof the following paragraph:-

The board of water commissioners may enter into contracts with, or may go to the aid of, an entity, including a city, town, commission or district or a company as defined in section 1 of chapter 165 of the General Laws, with regard to the operation, administration, repair and maintenance of the entity's water supply system. Such contracts may be made to provide water to any such entity on an emergency or long term basis or to provide water service to entity customers of another town who cannot be reasonably provided with water supply services by that town. No contract shall exceed 20 years duration and the aggregate of all such contracts shall not exceed 50 per cent of the daily safe yield as certified by the department of environmental protection; provided, however, that no such contract shall take effect without the prior approval of the town meeting.

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

Approved February 21, 2008.

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

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Wellfleet may issue bonds or notes not more than \$3,190,961 for the cost of constructing



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and reconstructing the Wellfleet harbor seawall for a term of not more than 20 years from their date of issuance; provided, however, that the amount of bonds shall be reduced by the amount of any grants or gifts received by the town for this project. Except as otherwise provided in this act, such bonds or notes shall be subject to all applicable provision of chapter 44 of the General Laws.

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

Approved February 21, 2008.

## **Chapter 37. AN ACT AUTHORIZING THE TOWN OF WESTON TO GRANT A LICENSE FOR THE SALE OF WINES AT A FOOD STORE.**

*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 Weston may grant to a food store a license for the sale of wines not to be drunk on the premises under section 15 of said chapter 138. Except as otherwise provided herein, such license shall be subject to all of said chapter 138 except said section 17.

For the purposes of this act, a “food store” shall mean a grocery store or supermarket which sells at retail, food for consumption off the seller’s premises either alone or in combination with grocery items or other nondurable items typically found in a grocery store and sold to individuals for personal, family or household use; provided, however, that such food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store shall not be a convenience store or specialty store; provided, however, that the board of selectmen shall determine whether an applicant is a food store under this act. In making such determination, the board of selectmen shall consider such factors as the volume of sales, actual or proposed, and the extent and range of merchandise offered for sale. The holder of a license under this act may sell wine alone or in combination with any other items offered for sale. The amount of any initial or renewal fee for such a license shall be determined by the licensing authority issuing or renewing that license.

Notwithstanding any general or special law or any rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other location, but the license may be granted at the same location if an applicant for the license files with the authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

If the license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining

thereto, to the licensing authority which may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

**SECTION 2.** Notwithstanding sections 11 and 11A of chapter 138 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Weston shall cause to be placed on the ballot at a regular election the following question:-

“Shall an act passed by the general court in the year 2008, entitled ‘An Act Authorizing the Town of Weston to Grant a License for the Sale of Wines at a Food Store’, be accepted?”

Below the ballot question shall appear a fair and concise summary of the ballot question prepared by the town counsel and approved by the board of selectmen. If a majority of votes cast in answer to the question is in the affirmative, the town shall be taken to have authorized the granting of a license for the sale of wines at a food store.

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

Approved February 21, 2008.

**Chapter 38. AN ACT AUTHORIZING THE PLACEMENT OF A QUESTION ON THE BALLOT RELATIVE TO THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES OF CERTAIN RESTAURANTS.**

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

**SECTION 1.** Notwithstanding any limitations imposed by section 11 of chapter 138 of the General Laws as to the time and manner of voting on questions or section 17 relative to the number of licenses to be held or any other general or special law to the contrary, the board of selectmen of the town of Tisbury shall cause to be placed on the official ballot at the 2008 annual town election the following question:

“Shall the board of selectmen be authorized to grant licenses, without quota and for seasonal or annual terms as the board shall determine, for the sale of wines and malt beverages to be drunk on the premises of restaurants, including those within inns and hotels, with a seating capacity of not less than 30 persons, to be consumed with meals only and consumed by patrons seated at dining tables?”

If a majority of votes cast in answer to said question is in the affirmative, the town shall be taken to have authorized the sale in said town of wines and malt beverages to be drunk on the premises of restaurants having a seating capacity of not less than 30 persons. The board of selectmen may from time to time issue regulations for the granting of licenses under this act and to define terms appropriate for that purpose.

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

Approved February 21, 2008.

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**Chapter 39. AN ACT AUTHORIZING THE TOWN OF HARWICH TO ACQUIRE CERTAIN CEMETERY PROPERTY.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Harwich, acting by and through its board of selectmen may acquire by gift, conveyance, purchase or eminent domain the real and personal property of the Pine Grove Cemetery Association of West Harwich Inc. Said real property is shown on Assessors Map as No. 18 parcel S-5 and No. 10 parcel B-1. The real property shall be used for cemetery purposes.

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

Approved February 21, 2008.

**Chapter 40. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO EXCHANGE CERTAIN LAND IN THE TOWN OF NEEDHAM.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for the exchange of certain land in the town of Needham, 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 or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of highways, shall convey to George Berejik, trustee of BMI Realty Trust, created under declaration of trust dated August 7, 1998, and filed with the registered land section of the Norfolk county registry of deeds as document number 801311, a certain parcel of land located in the town of Needham currently under the care and control of the department of highways and used for highway purposes. The parcel consists of approximately 26 square feet and is shown as lot 1 on a plan of land entitled, "100&120 Highland Avenue, Needham, Mass.", prepared for Needham Gateway LLC by Otte & Dwyer, Inc. Land Surveyors, dated April 11, 2007, which shall be recorded in the Norfolk county registry of deeds.

**SECTION 2.** In partial consideration for the conveyance authorized in section 1, George Berejik, trustee of BMI Realty Trust shall convey to the commonwealth a certain parcel of land located in the town of Needham containing approximately 31 square feet and shown as lot 2 on the plan described in section 1.

**SECTION 3.** In further consideration for the conveyance authorized in section 1,



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George Berejik, trustee of BMI Realty Trust, shall pay to the commonwealth a sum, as determined by an independent appraisal, that represents the amount by which the full and fair market value of the property described in said section 1 exceeds the full and fair market value of the property described in section 2.

**SECTION 4.** George Berejik, trustee of BMI Realty Trust, shall assume the cost of any appraisals, surveys, deed preparation and other expenses considered necessary by the commissioner of the division of capital asset management and maintenance to execute the conveyance authorized by this act.

Approved February 21, 2008.

## Chapter 41. AN ACT FURTHER AMENDING THE CHARTER OF THE TOWN OF BRAINTREE.

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

**SECTION 1.** Subsection (f) of section 9-5 of article 9 of chapter 189 of the acts of 2005 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Until such time as a salary is established for the office of mayor under subsection (c) of section 3-1, the initial salary for the mayor shall be the same as the amount which was provided at the top level of the pay grade for the position of executive secretary on December 31, 2007.

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

Approved February 21, 2008.

## Chapter 42. AN ACT RELATIVE TO UNEMPLOYMENT INSURANCE RATES.

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to lower forthwith the cost of unemployment insurance, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Notwithstanding section 14 of chapter 151A of the General Laws, the experience rate of an employer qualifying therefor under subsection (b) of said section 14 shall be the rate which appears in the column designated "D" in paragraph (1) of subsection (i) of said section 14 for calendar year 2008.

**SECTION 2.** This act shall take effect as of January 1, 2008.

Approved February 21, 2008.



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**Chapter 43. AN ACT AUTHORIZING THE INVESTMENT OF TRUST FUNDS FOR THE CITY OF NORTHAMPTON.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the treasurer of the city of Northampton may invest trust funds in the custody of the treasurer in accordance with the prudent investor rule and sections 3, 4, 5, 8 and 9 of chapter 203C of the General Laws. The treasurer, in consultation with the city's trust fund committee, shall develop investment policies which shall include an asset allocation policy and shall select professional investment advisors to manage such funds.

**SECTION 2.** Section 54 of chapter 44 of the General Laws shall not apply to the city of Northampton.

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

Approved February 21, 2008.

**Chapter 44. AN ACT FURTHER REGULATING WATER BETTERMENTS IN THE TOWN OF BREWSTER.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Brewster, pursuant to its water betterment program and in anticipation of full reimbursement through the assessment of betterments, may incur debt, within the limits of indebtedness set by section 10 of chapter 44 of the General Laws and for not more than 20 years, in the amount of the costs incurred by the town for supplying town water to property along private ways. The town shall not incur such indebtedness unless it has first been authorized by a two-thirds vote at an annual or special town meeting.

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

Approved February 21, 2008.

**Chapter 45. AN ACT DESIGNATING NORMAN ROCKWELL AS THE OFFICIAL ARTIST OF THE COMMONWEALTH.**

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

Chapter 2 of the General Laws is hereby amended by adding the following section:-  
Section 58. Norman Rockwell shall be the official artist of the commonwealth.

Approved February 21, 2008.

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**Chapter 46. AN ACT EXEMPTING CERTAIN POSITIONS IN THE CITY OF WORCESTER FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** Chapter 196 of the acts of 2006 is hereby amended by striking out sections 1 and 2 and inserting in place thereof the following 3 sections:-

Section 1. Notwithstanding any general or special law to the contrary, employees in the following departments and offices of the city of Worcester shall be exempt from the provisions of chapter 31 of the General Laws: the executive office of the city manager; the budget office; grants acquisition office; neighborhood services; the development office; the human resources office; the city architect and associated staff within the engineering and architectural division of the department of public works and parks; the elder affairs department; the technical services department; the office of workforce development and the administrative staff of the planning and zoning board, the historical commission, the cultural commission, the disabilities commission and the human rights commission and status of women committee.

Section 2. Notwithstanding any general or special law to the contrary, employees in the following departments and offices of the city of Worcester shall be exempt from chapter 31 of the General Laws: the purchasing department; the assessors office; the elections commission; the cable services division of the executive office of the city manager; the office of veterans' services; the customer service office of the department of public works and parks; the public library department and the law department; city clerk department; and the city auditor department.

Section 3. Nothing in this act shall impair the civil service status of an incumbent holding a position described in sections 1 or 2 on the effective date of this act.

**SECTION 2.** This act shall take effect as of August 1, 2006.

Approved February 21, 2008.

**Chapter 47. AN ACT REGULATING THE DISTRIBUTION AND SALE OF HOUSEHOLD CLEANING PRODUCTS CONTAINING PHOSPHOROUS.**

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

**SECTION 1.** Section 5R of chapter 111 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 33 and 40, the words "dishwashing machines" and inserting in place thereof, in each instance, the following words:- a commercial dishwashing process.

**SECTION 2.** Said section 5R of said chapter 111, as so appearing, is hereby further

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amended by striking out, in lines 36 and 37 and in lines 43 and 44, the words “in the commonwealth after July first, nineteen hundred and ninety-four”.

**SECTION 3.** This act shall take effect on July 1, 2010.

Approved February 21, 2008.

**Chapter 48. AN ACT RELATIVE TO THE LAND ACQUISITION AND MAINTENANCE FUND OF THE TOWN OF EASTHAM.**

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

Chapter 440 of the acts of 1998 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Expenditures from the fund may be made upon a majority vote of the board of selectmen; provided, however, that expenditures for the acquisition of land shall be made by a two-thirds vote of an annual or special town meeting.

Approved February 21, 2008.

**Chapter 49. AN ACT AUTHORIZING THE MIDDLESEX RETIREMENT BOARD TO GRANT A CERTAIN PENSION TO JAMES CHARLES MICKEL.**

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

**SECTION 1.** Notwithstanding any general or special law or rule or regulation to the contrary, the Middlesex retirement board shall increase the accidental disability retirement allowance payable to James Charles Mickel, a retired police officer in 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 James Charles Mickel under this act 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 officer in the town of Shirley at the grade held by him at the time of his retirement. The increased accidental disability retirement allowance granted in this act shall terminate on January 1, 2014, 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 to him 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.** This act shall take effect upon its passage.

Approved February 28, 2008.



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**Chapter 50. AN ACT FURTHER REGULATING ELECTIONS IN THE TOWN OF PLYMOUTH.**

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

**SECTION 1.** Chapter 5 of the home rule charter of the town of Plymouth, which is on file with the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by inserting after subsection 5-1-2 the following subsection:-

**5-1-3 Information for Voters.**

Notwithstanding section 22A of chapter 55 of the General Laws, section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, the official election ballot in the town of Plymouth shall include a fair and concise summary of any binding or non-binding question to be submitted solely to the voters of the town, along with a 1-sentence statement describing the effect of a yes or no vote, both prepared by town counsel and approved by the board of selectmen. Submission to the town clerk of the summary and 1-sentence statement shall be governed by section 42C of chapter 54 of the General Laws. The board of selectmen shall, not less than 7 nor more than 14 days before an election at which a question is to be voted upon, publish the following in a newspaper of general circulation in the town: (1) the full text of the question; (2) a fair and concise summary of the question; and (3) the 1-sentence statement describing the effect of a yes or no vote on the question; provided, however, that failure to timely publish such information shall not affect the validity of the election. The board of selectmen shall also post the full text of each ballot question, the summary and the 1-sentence statement in at least 1 location in the town or on the town's official website and shall make the same available at each polling place on the day of the election. The town may, by by-law, require additional posting or publishing of such information, subject to available funds and any other conditions that may be imposed by by-law.

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

Approved March 5, 2008.

**Chapter 51. AN ACT AUTHORIZING THE TOWN OF WESTFORD TO CONVEY CERTAIN LAND.**

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

**SECTION 1.** The board of selectmen of the town of Westford may transfer to the conservation commission the care, custody and control of property known as East Boston Camps, and shown as parcel 37 on the Westford assessors map 31 and parcel 32-4 on assessors map 35.



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

Approved March 5, 2008.

**Chapter 52. AN ACT RELATIVE TO AN EXCHANGE OF LAND IN THE TOWN OF SWANSEA.**

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

**SECTION 1.** The town of Swansea, acting by and through its board of selectmen, may transfer the property located on Old Providence road in the town of Swansea, containing approximately 217,171 square feet of land, to the Swansea water district for water supply purposes. The parcel is shown as map 21, lot 6 on a plan entitled "Land Transfer Plan in Swansea, Massachusetts", prepared by Mount Hope Engineering, Inc. and dated April 13, 2007. The water district shall utilize approximately 5,100 square feet of this property for the construction, operation, maintenance and use of new water supply facilities, including a tank and raw water pumping station, and the remainder of the property shall be held as conservation land by the water district.

**SECTION 2.** In consideration for the conveyance authorized in section 1, the Swansea water district may transfer land comprising approximately 216,342 square feet to the town of Swansea for the purpose of the construction of a public safety facility for the town; provided, however, that 5,100 square feet of land in this parcel shall be held as conservation land by the town. The entire parcel is shown as parcel 2, lots 28, 28-B, 28-C and 28-D on a plan entitled "Land Transfer Plan", prepared for the town of Swansea by Pro-Line Engineering and dated April 13, 2007.

**SECTION 3.** No document, including a deed, transferring the care, custody, control, ownership or management of the 2 properties described in sections 1 and 2 from the town of Swansea to the water district and the water district to the town shall be valid unless the document contains a conservation restriction on the remainder of the 217,171 square feet of the land described in section 1 that will not be used for water supply purposes by the water district, a conservation restriction on the 5,100 square feet of the land described in section 2 that will not be used by the town for the public safety facility and meets all the requirements of the Aquifer Land Acquisition Program at the department of environmental protection as recorded on the deed of the 216,342 square foot parcel described above.

**SECTION 4.** If the land conveyed from the water district to the town of Swansea in section 2 ceases to be used for municipal purposes, the land shall revert to the water district for water supply protection purposes.

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

Approved March 5, 2008.

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**Chapter 53. AN ACT RELATIVE TO THE RANDOLPH PUBLIC LIBRARY.**

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

**SECTION 1.** Notwithstanding any general or special law or regulation to the contrary, the board of library commissioners shall certify that the town of Randolph has met the minimum hour standards of free public library service and shall be eligible for the state aid to public libraries program for fiscal year 2008 under section 19A of chapter 78 of the General Laws.

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

Approved March 5, 2008.

**Chapter 54. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO ENTER INTO CERTAIN AGREEMENTS FOR LIBRARY PURPOSES.**

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

**SECTION 1.** Notwithstanding chapter 30B of the General Laws or any other general or special law to the contrary, the city of Springfield may enter into a lease agreement with the Springfield Library and Museums Association, in this act referred to as "SLMA", for the city's use of the central library building located at 220 State street in the city of Springfield, including the land and building, for a term up to 25 years, with successive options to extend the term for 5-year periods at the city's option, under such terms and conditions upon which the city and SLMA may agree.

**SECTION 2.** Notwithstanding chapter 30B of the General Laws or any other general or special law to the contrary, the city of Springfield may enter into a written service agreement with SLMA for SLMA to provide museum services to the city's residents and visitors for a period up to 25 years, with successive options to extend the term for 5-year periods at the city's option, under such terms and conditions upon which the city and SLMA may agree.

**SECTION 3.** Notwithstanding chapter 30B of the General Laws or any other general or special law to the contrary, the city of Springfield may enter into a lease agreement with SLMA to rent from SLMA 4 branch libraries-the East Springfield Branch, the Forest Park Branch, the Indian Orchard Branch, and the Liberty Branch-libraries in the city of Springfield, including the land and buildings, for successive 3-year terms, under such terms and conditions upon which the city and SLMA may agree.

**SECTION 4.** Notwithstanding chapter 30B of the General Laws or any other general or special law to the contrary, the city of Springfield may acquire from SLMA, by quitclaim deed, the 4 SLMA-owned branch libraries described in section 3, and the contents thereof, under such terms and conditions upon which the city and SLMA may agree.

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

Approved March 11, 2008.

**Chapter 55. AN ACT REVISING THE COMPOSITION AND DUTIES OF THE QUINEBAUG AND SHETUCKET RIVERS VALLEY HERITAGE DISTRICT AND COMMISSION.**

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

**SECTION 1.** Section 1 of chapter 127 of the acts of 1997 is hereby amended by striking out, in line 3, the words “Charlton, Dudley” and inserting in place thereof the following words:- Brimfield, Charlton, Dudley, East Brookfield, Holland.

**SECTION 2.** The first paragraph of section 3 of said chapter 127 is hereby amended by striking out, in line 1, the word “nine” and inserting in place thereof the following figure:- 12.

**SECTION 3.** Said first paragraph of said section 3 of said chapter 127 is hereby further amended by striking out, in line 2, the word “four” and inserting in place thereof the following figure:- 6.

**SECTION 4.** Said first paragraph of said section 3 of said chapter 127 is hereby further amended by striking out, in line 3, the word “two” and inserting in place thereof the following figure:- 3.

**SECTION 5.** The fourth paragraph of said section 3 of said chapter 127 is hereby amended by inserting after the word “members”, in line 3, the following words:- who are residents of the district.

**SECTION 6.** The fifth paragraph of section 4 of said chapter 127 is hereby amended by striking out, in lines 17 to 21, inclusive, the words “and shall present a unified historic preservation and interpretive plan for the district. The report shall include an analysis of the methods and means of inventorying, preserving, and interpreting the historical, cultural and natural resources of the district along with recommendations concerning utilization of these resources and coordination of activities within the district” and inserting in place thereof the following words:- and shall maintain and update a unified historic preservation and interpretive plan for the district in coordination with the Massachusetts historical commission.

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

Approved March 11, 2008.

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**Chapter 56. AN ACT RELATIVE TO TOWN MEETING IN THE TOWN OF ORANGE.**

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

Notwithstanding section 9 of chapter 39 of the General Laws or any other general or special law to the contrary, the town of Orange may hold its annual town meeting on the third Monday in June.

Approved March 11, 2008.

**Chapter 57. AN ACT RELATIVE TO TOWN MEETING MEMBERS IN THE TOWN OF FRAMINGHAM.**

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

**SECTION 1.** Section 5 of chapter 143 of the acts of 1949, as most recently amended by section 1 of chapter 372 of the acts of 2004, is hereby further amended by adding the following 2 sentences:- A town meeting member appointed by precinct members to fill a vacancy pursuant to this section shall serve until the next annual town election. At such election, whether or not the vacancy has been filled, a member shall be elected to fill the unexpired term.

**SECTION 2.** Section 5A of said chapter 143 is hereby amended by striking out paragraph (5), as most recently amended by section 3 of said chapter 372, and inserting in place thereof the following paragraph:-

(5) When the town clerk receives notice that a town meeting member has moved from the town, the town clerk shall verify that the town meeting member no longer resides in the town and, upon verification, shall declare the position vacant. A town meeting member appointed by precinct members to fill a vacancy pursuant to this paragraph shall serve until the next annual town election. At such election, whether or not the vacancy has been filled, a member shall be elected to fill the unexpired term.

Approved March 11, 2008.

**Chapter 58. AN ACT FURTHER REGULATING THE SALE OF GIFT CERTIFICATES.**

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

**SECTION 1.** Section 5D of chapter 200A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the last sentence and inserting in



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place thereof the following 3 sentences:- A purchaser or holder of a gift certificate which, by its terms, prohibits the purchaser or holder from adding value thereto and which has been redeemed for at least 90 per cent of its face value shall make an election to receive the balance in cash or continue using the gift certificate. A purchaser or holder of a gift certificate which, by its terms, authorizes the purchaser or holder to add value thereto and which has been redeemed in part, such that the value remaining is \$5.00 or less, shall make an election to receive the balance in cash or continue using the gift certificate. A gift certificate with a zero balance shall be void.

**SECTION 2.** The definition of "Gift certificate" in section 1 of chapter 255D of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A gift certificate shall not include pre-paid calling arrangements, as defined in section 1 of chapter 64H, or any electronic card usable with multiple unaffiliated sellers of goods or services.

**SECTION 3.** Chapter 266 of the General Laws is hereby amended by inserting after section 75C the following 3 sections:-

Section 75D. Whoever sells or offers to sell a gift certificate, as defined in section 1 of chapter 255D, which imposes dormancy fees, latency fees, administrative fees, periodic fees, service fees or other fees that have the effect of reducing the total value amount for which the holder may redeem such gift certificate, shall be punished by a fine of not more than \$300 per violation.

Section 75E. Whoever sells or offers to sell a gift certificate, as defined in section 1 of chapter 255D, which imposes any fees or charges including, but not limited to, purchase fees, activation fees, renewal fees or cancellation fees, shall provide to consumers notice of any such fees, in writing, on the gift certificate, on the packaging of the gift certificate, or on both. Failure to print such notice shall be punished by a fine of not more than \$300 per violation.

Section 75F. Whoever redeems a gift certificate, as defined in section 1 of chapter 255D and deducts a gratuity therefrom without the consent of the holder of the gift certificate, shall be punished by a fine of not more than \$300 per violation.

Approved March 11, 2008.

**Chapter 59. AN ACT AUTHORIZING THE TOWN OF TEMPLETON TO EXCHANGE A PARCEL OF CONSERVATION LAND FOR A LARGER PARCEL TO BE HELD FOR CONSERVATION PURPOSES.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Templeton may convey a certain parcel of land containing 6,457

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square feet, more or less, which is a portion of land acquired by the town for conservation purposes, specifically to improve the appearance and sightlines of Edgewater pond, by Order of Taking dated November 20, 1964, and recorded with the Worcester South district registry of deeds in book 4520, page 531, for such consideration, which may be nominal consideration, and on such other terms and conditions as the board of selectmen may consider appropriate.

**SECTION 2.** The town of Templeton, acting by and through its conservation commission, may accept, as consideration for the conveyance authorized in section 1, a certain parcel of land containing 1.123 acres, more or less, which is located contiguous to conservation land of the town of Templeton, for conservation purposes.

**SECTION 3.** A conveyance under this act shall be exempt from chapter 30B of the General Laws.

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

Approved March 13, 2008.

## **Chapter 60. AN ACT VALIDATING THE ACTIONS TAKEN AT A CERTAIN ANNUAL TOWN MEETING HELD IN THE TOWN OF PHILLIPSTON.**

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

**SECTION 1.** Notwithstanding any general or special law or by-law to the contrary, the acts and proceedings taken by the town of Phillipston at the annual town meeting held on May 4, 2005, and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if notice of the meeting had been given in full compliance with the law.

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

Approved March 19, 2008.

## **Chapter 61. AN ACT INCREASING THE LOCAL PROPERTY TAX RELIEF TO NONPROFIT VETERANS ORGANIZATIONS IN CERTAIN CITIES AND TOWNS.**

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

Section 5 of chapter 59 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after clause Fifth B the following clause:—

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Fifth C, The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of \$1,500,000, if used and occupied by such association, and if the net income from the property is used for charitable purposes, but the estate shall not be exempt for any year in which the association, or the trustees holding for the benefit of the association, willfully fails to file with the assessors the list and statement required by section 29. This clause shall take effect upon its acceptance by any city or town. In a city or town which accepts this clause, clauses Fifth, Fifth A and Fifth B shall not be applicable.

Approved March 19, 2008.

**Chapter 62. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2008 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 are forthwith to make supplemental appropriations for fiscal year 2008 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2008, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2008. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**SECTION 2.**

**SECRETARY OF THE COMMONWEALTH**  
*Office of the Secretary of the Commonwealth*

0521-0000 ..... \$195,006

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**

*Reserves*

1599-1971 ..... \$27,107,795

**EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS**

*Department of Conservation and Recreation*

2820-2000 ..... \$1,676,322

**EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS**

*Highway Department*

6005-0015 ..... \$6,025,239

6010-0002 ..... \$2,862,102

6030-7201 ..... \$38,763,050

**EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY**

*Sex Offender Registry Board*

8000-0125 ..... \$354,976

*Military Division*

8700-0001 ..... \$2,256,619

**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 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, 2008. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**OFFICE OF THE STATE COMPTROLLER**

*Office of the State Comptroller*

1599-3394 For payment to the United States Department of Labor for the  
outstanding balance of the judgment in *Jane C. Edmonds v.*  
*Elaine L. Chao* ..... \$7,332,364

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**

*Office of the Secretary of Administration and Finance*

1599-4275 For a reserve to meet the fiscal year 2008 costs of salary adjust-



ments and other economic benefits authorized by the collective bargaining agreement between the Middlesex sheriff's department and the Middlesex Superior Officers Association and to meet the fiscal year 2008 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 such agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine the adjustments and benefits for the 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 2008 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 . . . . . \$147,310

1599-4277 For a reserve to meet the fiscal year 2008 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Nurses Association, Unit 7, and to meet the fiscal year 2008 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 such agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine the adjustments and benefits for the 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 2008 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 . . . . . \$2,353,765

1599-4278 For a reserve to meet the fiscal years 2007, 2008 and 2009 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Coalition of Public Safety, Unit 5, at the alcoholic beverages control commission, and to meet the fiscal years 2007, 2008 and 2009 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 the adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these 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 2008 and 2009 such amounts as are 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; and provided further, that \$63,786 shall be available through June 30, 2009, to provide for the fiscal year 2009 costs of the contract ..... \$172,247

**SECTION 3.** Section 87 of chapter 61 of the acts of 2007 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The commission shall file its report, including any legislative or regulatory recommendations, with the clerks of the senate and the house of representatives not later than June 30, 2008.

**SECTION 3A.** The fifth sentence of section 3 of chapter 192 of the acts of 1994 as appearing in section 2 of chapter 3 of the acts of 2005, as most recently amended by section 4A of chapter 16 of the acts of 2007, is hereby further amended by inserting after the words “financial services,” the following words:- and the senate and the house chairmen of the joint committee on revenue.

**SECTION 3B.** Said fifth sentence of said section 3 of said chapter 192 is hereby further amended by inserting after the word “technologies”, as appearing in section 4A of chapter 16 of the acts of 2007, the following words:- and the house vice chairman of the committee on revenue.

**SECTION 4.** Notwithstanding any general or special law to the contrary, the comptroller shall grant a 1-time partial waiver of deductions for pensions, group health, life insurance or other fringe costs recovered on behalf of federally-reimbursed state employees

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**Chap. 62**

in the department of workforce development; provided, however, that these costs shall not exceed \$4,892,543. The waiver shall apply for fiscal year 2008 only.

Approved March 21, 2008.

**Chapter 63. AN ACT RELATIVE TO PROPERTY TAX EXEMPTIONS IN THE TOWN OF SWAMPSCOTT.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the natural or adoptive parents of, or those who stood in *loco parentis* to, army specialist Jared J. Raymond shall receive a 100 per cent real estate tax exemption for real estate located at 30 Pitman road in the town of Swampscott for fiscal year 2008.

**SECTION 2.** Notwithstanding any general or special law to the contrary, the natural or adoptive parents of, or those who stood in *loco parentis* to, marine captain Jennifer J. Harris shall receive a 100 per cent real estate tax exemption for real estate located at 4 Elwin street in the town of Swampscott for fiscal year 2008.

Approved March 27, 2008.

**Chapter 64. AN ACT AUTHORIZING THE CITY OF SALEM TO ISSUE ADDITIONAL LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES.**

*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 Salem may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to New Boston Ventures, LLC, for a restaurant located at 50 St. Peter street in the city of Salem. The license shall be subject to all of said chapter 138 except said section 17.

The licensing authority shall not approve the transfer of the license to any other location but the license may be granted by the local alcohol licensing authority at the same location if an applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid. If the license granted under this section is cancelled, revoked or no longer in use, such license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority



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## Chap. 64

and the licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

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

Approved March 27, 2008.

## **Chapter 65. AN ACT AUTHORIZING THE TOWN OF NORTH ANDOVER 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 North Andover may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises to Wine & Beer at the Andovers, LLC, located at 342 Winthrop avenue in the town of North Andover, under section 15 of said chapter 138. The license shall be subject to all of said chapter 138, except section 17. The licensing authority shall not approve the transfer of the license to any other location.

The license may be re-issued by the licensing authority at the same location if an applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

If any license granted under this section is cancelled, revoked or no longer in use, such license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

Upon issuance of the all alcoholic beverages license, Wine & Beer at the Andovers, LLC, shall return to the town the license for the sale of wines and malt beverages not to be drunk on the premises that it currently holds.

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

Approved March 27, 2008.



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**Chapter 66. AN ACT RELATIVE TO THE OPERATION OF THE SEWER SYSTEM OF THE TOWN OF IPSWICH.**

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

**SECTION 1.** Section 7 of chapter 30 of the acts of 1946 is hereby amended by striking out the last sentence, inserted by section 2 of chapter 83 of the acts of 1999 and inserting in place thereof the following sentence: -Notwithstanding any provision of the first sentence to the contrary, if the owners of not less than 66⅔ per cent of the land abutting a proposed sewer project, calculated on a basis consistent with the determined method of betterment of those lots to be served by the project in accordance with section 15 of chapter 83 of the General Laws, petition the sewer commissioners for construction of an extension of the sewer system subject to betterment, the sewer commissioners may assess betterments up to 100 per cent of the cost of such extension to the sewer system.

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

Approved March 27, 2008.

**Chapter 67. AN ACT AUTHORIZING THE CITY OF SALEM 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 city of Salem may grant an additional license for the sale of wines and malt beverages and for the sale of cordials and liqueurs to be drunk on the premises under section 12 of said chapter 138 to Gulu-Gulu Corporation d/b/a Gulu-Gulu Café and located at 247 Essex street. The license shall be subject to all of said chapter 138 except said section 17.

Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other location. The license may be granted by the licensing authority to the same location if an applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid. If the license granted under this section is cancelled, revoked or no longer in use, such license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same location and under the same conditions as specified in the preceding paragraph.

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

Approved April 3, 2008.

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**Chapter 68. AN ACT RELATIVE TO THE MEMBERSHIP OF THE BOARD OF PUBLIC WORKS IN THE TOWN OF WHITMAN.**

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

**SECTION 1.** Section 1 of chapter 9 of the acts of 1948 is hereby amended by striking out, in line 3, the word “three”, and inserting in place thereof the following figure:- 5.

**SECTION 2.** Said section 1 of said chapter 9 is hereby further amended by striking out the second sentence and inserting in place thereof the following 4 sentences:- The 3 members serving on the board on the effective date of this act shall continue to serve until the expiration of their terms. The 2 additional members of the board shall be appointed by majority vote of the board of selectmen and the present members of the board at a joint meeting called for such purpose. The 2 additional members shall be elected as follows: 1 to serve for 2 years, and 1 to serve for 3 years. When the term of any member expires, his successor shall be elected to serve for 3 years.

**SECTION 3.** Said section 1 of said chapter 9 is hereby further amended by striking out the fourth sentence.

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

Approved April 3, 2008.

**Chapter 69. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DONNA L. MONFREDO, 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 Donna L. Monfredo, 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 said Donna L. Monfredo. Upon such time as said Donna L. Monfredo terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved April 3, 2008.

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**Chapter 70. AN ACT FURTHER REGULATING THE RESALE OF MATTRESSES.**

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

Chapter 94 of the General Laws is hereby amended by inserting after section 271 the following section:-

Section 271A. Notwithstanding any general or special law or rule or regulation to the contrary, a mattress, box spring, studio couch or futon mattress which has been delivered to and used by a customer and which is later returned to the seller thereof shall be clearly and conspicuously marked thereon and advertised by the seller before any further sale with a tag stating the following: "This mattress, box spring, studio couch or futon mattress has been previously sold, delivered, used and returned and is being offered for resale."

Approved April 3, 2008.

**Chapter 71. AN ACT AUTHORIZING THE MASHPEE WATER DISTRICT TO ENTER INTO A CERTAIN AGREEMENT WITH THE TOWN OF SANDWICH.**

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

**SECTION 1.** Chapter 136 of the acts of 1987 is hereby amended by inserting after section 18 the following section:-

Section 18A. Notwithstanding section 4A of chapter 40 of the General Laws or any other general or special law to the contrary, the Mashpee Water District may enter into an agreement with the town of Sandwich for a term in excess of 25 years, to allow certain residential properties in the town of Sandwich to connect to and use the water system of the Mashpee Water District pursuant to an intermunicipal agreement between the Mashpee Water District and the town of Sandwich. The Mashpee Water District may impose a lien upon property in the town of Sandwich which connects to the water system of the district pursuant to the agreement, which lien shall secure unpaid fees and charges relative to connection to or use of the water system of the district. If a charge or fee secured by the lien remains unpaid when the town of Sandwich assessors are preparing a real estate tax list and warrant, upon request by the Mashpee Water District the charge or fee shall be added to the tax on the property pursuant to section 58 of chapter 40 of the General Laws. Upon receipt of tax payments which include a charge or fee imposed pursuant to the agreement authorized by this act, the town of Sandwich shall forthwith transfer the charge or fee payment, together with all accrued interest and other charges, to the Mashpee Water District. In the event that the town of Sandwich forecloses the right of redemption on a tax lien which includes any charges or fees due to the Mashpee Water District, the fees or charges due to the Mashpee Water District shall survive the foreclosure of the right of redemption of the tax lien, and shall be due and payable, together with all accrued interest, upon conveyance thereafter by



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the town of Sandwich to any person or governmental entity not a part of the town of Sandwich.

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

Approved April 10, 2008.

## **Chapter 72. AN ACT AUTHORIZING THE TOWN OF DEDHAM 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 sections 12 and 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the Dedham board of selectmen may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises, subject to the conditions set forth in this act.

The additional license authorized by this act shall be reserved for and restricted to the Dedham Lodge No. 189 Loyal Order of Moose Inc. for the premises at 79 Lower East street in the town of Dedham, subject to all other requirements for an all alcoholic beverages license.

The additional license authorized by this act shall be nontransferable.

In the event that Dedham Lodge No. 189 Loyal Order of Moose Inc. ceases to exist or no longer owns or operates the premises at 79 Lower East street in the town of Dedham, the additional license authorized by this act shall be automatically revoked and shall not be granted or issued to any other entity.

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

Approved April 10, 2008.

## **Chapter 73. AN ACT INCREASING THE MEMBERSHIP OF THE BOARD OF SELECTMEN IN THE TOWN OF GEORGETOWN.**

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

**SECTION 1.** The number of members of the board of selectmen of the town of Georgetown shall be increased to 5. Each selectman shall serve for a 3-year term, with not more than 2 selectmen's terms to run concurrently. Notwithstanding the preceding sentence, at the annual town election following at least 64 days after acceptance of this act by the voters, 1 additional member shall be elected to a 2 year term and 1 additional member shall



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be elected to a 3-year term. Nothing in this act shall affect the terms of those members serving as selectmen on the effective date of this section.

**SECTION 2.** This act shall be submitted to the voters of the town of Georgetown at a special or annual town election in the form of the following question, which shall be placed on the official ballot to be used for the election:

“Shall an act passed by the general court in the year 2008 entitled, ‘An Act Increasing the membership of the board of selectmen in the town of Georgetown,’ be accepted?”

No summary shall appear on the ballot below this question. If a majority of the votes cast in answer to this question is in the affirmative, section 1 shall take effect, but not otherwise.

**SECTION 3.** Section 2 of this act shall take effect upon its passage.

Approved April 10, 2008.

## Chapter 74. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF WRENTHAM.

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

**SECTION 1.** (a) Any elective officer of the town of Wrentham that has served at least 120 days in office may be recalled from office by the voters as provided in this act. Five per cent of the registered voters of the town as of the last regular town election may file an affidavit with the town clerk containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall provide to those voters printed form petition blanks addressed to the board of selectmen demanding the recall. The blanks shall be dated and shall contain the names of all persons to whom they were issued, the name of the person whose recall is being sought and the grounds of recall as stated in the affidavit. The petition shall demand the election of a successor to the office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk.

(b) The recall petition shall be returned and filed in the office of the clerk within 18 days after the date upon which the clerk issued the petition and shall contain the signatures of at least 20 per cent of the total number of voters duly recorded on the registration list of the clerk as of the most recent town election preceding the filing of the petition.

**SECTION 2.** The clerk shall, within 7 days following receipt of the recall petition, certify the number of signatures which are names of voters in the town. If the town clerk determines that it contains a sufficient number of valid signatures, the clerk shall immediately submit the petition to the board of selectmen. Upon its receipt of a certified petition, the board of selectmen shall, within 72 hours, give notice of the recall petition and its certification to the officer whose recall is sought. If the officer sought to be recalled does not resign from office within 5 days after receipt of the notice, the board of selectmen shall

order a recall election to be held not less than 64 days nor more than 90 days after the date of certification by the town clerk. If another regular town election or special election shall be held within 90 days, then the recall election shall take place on the date of that other regular town election or special election. All procedures for voting upon the recall question and filling the vacancy caused by the recall of an officer shall be in the same manner as provided by general law for the conduct of town elections.

(b) If the officer resigns or a vacancy otherwise occurs in the office after a recall election has been ordered, the election shall proceed as provided in this act, but only the ballots for the new candidates shall be counted.

**SECTION 3.** Any officer sought to be removed may be a candidate to succeed himself and, unless the officer requests otherwise in writing within 14 days after receiving notice of the recall petition, the town clerk shall place the name of the officer on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with all laws relative to elections.

**SECTION 4.** (a) Ballots used at a recall election shall contain the following propositions in the order indicated:

FOR THE RECALL OF (NAME OF OFFICER) ( )  
AGAINST THE RECALL OF (NAME OF OFFICER) ( )

Adjacent to each proposition, there shall be a place to mark a vote. After the propositions, the word "CANDIDATES" shall appear, followed by the names of all candidates, arranged alphabetically by surname. Adjacent to the name of each candidate shall be a place to mark a vote.

(b) If a majority of the votes cast upon the question of recall is in the negative, the ballots for the candidates shall not be counted unless the incumbent officer has previously resigned or a vacancy has otherwise occurred pursuant to subsection (b) of section 2.

(c) If a majority of the votes cast upon the question of recall is in the affirmative, then such officer shall be recalled and the candidate receiving the highest number of votes shall be declared elected provided, however, that at least 25 per cent of all those qualified to vote in the town shall have voted.

**SECTION 5.** If an officer who was the subject of a recall election was not recalled, no subsequent recall election shall be filed against him until the expiration of 6 months after the date of the previous recall election.

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

Approved April 10, 2008.

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**Chapter 75. AN ACT AUTHORIZING THE CITY OF SALEM 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 city of Salem may grant an additional license for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138 to Buchhalter, Ltd., d/b/a Upper Crust and located at 118 Washington Street in Salem. The license shall be subject to all of said chapter 138 except said section 17.

The licensing authority shall not approve the transfer of the license to any other location. The license may be granted by the licensing authority to an applicant at the same location if the applicant files with the authority a letter in writing from the department of revenue indicating that the license is in good standing and that all applicable taxes have been paid. If the license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same location and under the same conditions as specified in this act.

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

Approved April 10, 2008.

**Chapter 76. AN ACT FURTHER REGULATING PARKING FOR HANDICAPPED PERSONS.**

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

**SECTION 1.** Clause (23) of section 21 of chapter 40 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Parking spaces designated as reserved under paragraph (a) shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense". The spaces shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person and shall be at least 8 feet wide, not including the cross hatch access aisle as defined by the architectural access board established in section 13A of chapter 22. The cross hatch access aisle abutting a handicapped parking space shall be considered part of the handicapped parking space to which it abuts to provide individuals who use wheelchairs or other mobility aids with sufficient space to enter and exit their vehicles. No person shall park in the cross hatched access aisle.



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**SECTION 2.** Said section 21 of said chapter 40, as so appearing, is hereby further amended by inserting after the word “the”, in line 177, the following words:- standing or.

**SECTION 3.** The second paragraph of section 22A of said chapter 40, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 3 sentences:- Parking spaces designated as restricted under this paragraph shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words “Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner’s Expense”. The spaces shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person and shall be at least 8 feet wide, not including the cross hatch access aisle as defined by the architectural access board established in section 13A of chapter 22. If parking spaces designated as restricted under this paragraph are made temporarily unavailable due to a construction project or other planned event, the city or town shall ensure that the nearest available nonreserved parking space, if any, shall be temporarily designated as restricted under this paragraph.

Approved April 10, 2008.

## **Chapter 77. AN ACT RELATIVE TO THE BOARD OF PUBLIC WORKS IN THE TOWN OF WHITMAN.**

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

**SECTION 1.** Section 3 of chapter 9 of the acts of 1948 is hereby amended by striking out, in lines 2 and 3, the words “a competent civil engineer, being”.

**SECTION 2.** This act shall take effect as of July 1, 2007.

Approved April 10, 2008.

## **Chapter 78. AN ACT REQUIRING CONTINUING EDUCATION OF CONSTRUCTION SUPERVISORS.**

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

Section 94 of chapter 143 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 2 paragraphs:-

(m) To develop requirements and approve courses of instruction to be offered by others relative to the continuing education of individuals licensed as construction supervisors.



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(n) To establish a continuing education advisory council to assist and make recommendations to the board relative to the formulation, promulgation and administration of requirements for the continuing education of individuals licensed as construction supervisors. The council shall consist of: the commissioner of public safety, or his designee; 2 licensed construction supervisors who shall also be members of the Home Builders Association of Massachusetts; 1 licensed construction supervisor who shall also be a member of the eastern Massachusetts chapter of the National Association of the Remodeling Industry; and 3 members to be appointed by the commissioner, 2 of whom shall be certified building inspectors and 1 of whom shall be an instructor in residential construction technology at a public or private college or university. The commissioner shall be chairperson of the council which shall meet regularly and may establish its own rules for the conduct of its business. The members of the council shall not be compensated for their services but shall be reimbursed for travel and other expenses necessary for the performance of their duties. The board may provide technical and clerical assistance to the council.

Approved April 10, 2008.

## Chapter 79. AN ACT RELATIVE TO CHILD PASSENGER SAFETY.

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

**SECTION 1.** Section 1 of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of “Child passenger restraint” and inserting in place thereof the following definition:-

“Child Passenger restraint”, a specifically designed seating system which meets the United States Department of Transportation Federal Motor Vehicle Safety Standards, as established in 49 C.F.R. 571.213, which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.

**SECTION 2.** Section 7AA of said chapter 90, as so appearing, is hereby amended by striking out the first 2 paragraphs and inserting in place thereof the following 2 paragraphs:-

A passenger in a motor vehicle on any way who is under the age of 8 shall be fastened and secured by a child passenger restraint, unless such passenger measures more than 57 inches in height. The child passenger restraint shall be properly fastened and secured according to the manufacturer’s instructions.

Unless required to be properly fastened and secured by a child passenger restraint under the preceding paragraph, a passenger in a motor vehicle on any way that is under the age of 13 shall wear a safety belt which is properly adjusted and fastened according to the manufacturer’s instructions.

Approved April 11, 2008.

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## **Chapter 80. AN ACT FURTHER REGULATING EMPLOYEE COMPENSATION.**

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

**SECTION 1.** Section 27 of chapter 149 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 2.** Section 27F of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 3.** Section 27G of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 4.** Section 27H of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An

employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 5.** Section 150 of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of sections 33E, 148, 148A, 148B, 150C, 152, 152A or 159C or section 19 of chapter 151 may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 6.** The first paragraph of section 1B of chapter 151 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 3 sentences:- In addition, if a person is paid by an employer less than such overtime rate of compensation, the person may institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for the full amount of the overtime rate of compensation less any amount actually paid to him by the employer. An agreement between the person and the employer to work for less than the overtime rate of compensation shall not be a defense to such action. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for lost overtime compensation and shall also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 7.** The first paragraph of section 20 of said chapter 151, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 3 sentences:- If a person is paid by an employer less than the minimum fair wage to which the person is entitled under or by virtue of a minimum fair wage regulation, or less than \$1.85 per hour in a manufacturing occupation or in any other occupation not covered by a minimum fair wage regulation, the person may institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred and for the full amount of the minimum wages less any amount actually paid to him by the employer. An agreement between the person and the employer to work for less than the minimum wage shall not be a defense to such action. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for any loss of minimum wage and shall also be awarded the costs of the litigation and reasonable attorneys' fees.

*The foregoing was laid before the Governor on the third day of April, 2008, and after ten days has 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 this time.*



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## **Chapter 81. AN ACT PROVIDING FOR A CHARTER FOR THE TOWN OF GROTON.**

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

### **SECTION 1. The following shall be the charter for the town of Groton: ARTICLE 1: INCORPORATION, EXISTENCE AND AUTHORITY**

#### **Section 1-1: Incorporation**

The inhabitants of the town of Groton, within the corporate limits established by law, shall continue to be a body corporate and politic with perpetual succession under the name "town of Groton."

#### **Section 1-2: Short Title**

This instrument shall be known and cited as the Groton Charter.

#### **Section 1-3: Powers of the Town**

It is the intent and purpose of the voters of the town, through the adoption of this charter, to secure for the town all the powers possible under the constitution and laws of the commonwealth, as fully and as completely as though each power were specifically and individually enumerated herein.

#### **Section 1-4: Division of Powers**

The administration of all the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a board of selectmen and a town manager. The legislative powers shall be exercised by an open town meeting.

#### **Section 1-5: Interpretation of Powers**

The powers reserved or granted to the town under this charter shall be construed liberally and interpreted broadly in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the town as stated in section 1-3.

#### **Section 1-6: Intergovernmental Relations**

The town may enter into agreements with any other units of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

#### **Section 1-7: Precedence of Charter Provisions**

All general laws, special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when the charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

#### **Section 1-8: Ethical Standards**

Elected and appointed officers, employees and volunteers of the town are expected to demonstrate, by their example, with their general conduct and in the performance of their duties and responsibilities, the highest ethical standards to the end that the public may justifiably have trust and confidence in the integrity of its government. Elected and appointed officers, employees and volunteers of the town are expected to recognize that they act always as agents for the public, that they hold their offices or positions for the benefit of the public,



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that the public interest is their primary concern, and that they are expected to faithfully discharge the duties of their offices regardless of personal considerations. Elected and appointed officials, employees and volunteers of the town shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege or exemption to themselves or to any other person beyond that which is available to every other person.

### Section 1-9: Definitions

As used in this charter, the following words shall have the following meanings unless the context clearly requires otherwise:

- (a) "Charter", this charter and any amendments to it, which may hereafter be adopted.
- (b) "Days", business days, not including Saturdays, Sundays and legal holidays; provided, however, that when the time set is at least 7 days, every day shall be included.
- (c) "Emergency", a sudden, unexpected, unforeseen happening, occurrence, event or condition which necessitates immediate action.
- (d) "Local newspaper", a newspaper of general circulation in the town of Groton.
- (e) "Majority vote", a majority of those present and voting, provided that a quorum is present when the vote is taken.
- (f) "Multiple member body", any town body, consisting of at least 2 persons, whether called a board, commission, committee, subcommittee or otherwise and however elected, appointed or otherwise constituted.
- (g) "Quorum", except for a town meeting and unless otherwise required by law or this charter, a majority of the members of a multiple member body then in office, not including any vacancies which might then exist.
- (h) "Town", the town of Groton.
- (i) "Town agency", any board, commission, committee, department, division or office of the town government.
- (j) "Town Bulletin Board", bulletin boards in the town hall on which office notices are posted and those at other town buildings or facilities which may be designated as town bulletin boards.
- (k) "Town Meeting", the open town meeting established in article 2, whether annual or special.
- (l) "Town Officer", a person having charge of an office or department of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.
- (m) "Voters", registered voters of the town.
- (n) "Warrant", a document required to warn and notify residents and inhabitants of the town, who are qualified to vote in town affairs, to meet at a specific place to act on published articles relating to the governance of the town.

## ARTICLE 2: LEGISLATIVE BRANCH

### Section 2-1: Town Meeting

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The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

The town meeting shall meet in regular session twice in each calendar year. The first such meeting, referred to herein as the "spring town meeting", shall be held during March, April or May, on a date fixed by by-law, and shall be primarily concerned with the determination of matters involving the expenditure of town funds, including, but not limited to, the adoption of an annual operating budget for all town agencies, and for the purpose of electing officers and for the determination of all other matters to be decided by ballot of the voters. The spring town meeting shall be deemed to be the annual town meeting. The second such meeting, referred to herein as the "fall town meeting," shall be held during the last 4 months of the calendar year on a date fixed by by-law, and shall be deemed to be an annual town meeting for all purposes of the General Laws; provided, however, that the fall town meeting shall not include the election of officers.

### Section 2-2: Presiding Officer

The moderator, elected as provided in section 3-4, shall preside at all sessions of annual and special town meetings. He shall, at the first session of the spring town meeting, appoint a deputy moderator, subject to ratification by the town meeting, to serve at any session of an annual or special town meeting in the event of his absence or disability. The deputy moderator may also temporarily serve when the moderator has a conflict or the appearance of conflict arises, as determined by the moderator, with regard to a particular article or matter under consideration.

The moderator, at all town meetings, shall regulate the proceedings, decide all questions of order, make public declaration of all votes, and may exercise such additional powers and duties as may be authorized by law, this charter, by-law or other vote of the town meeting.

### Section 2-3: The Town Report

The board of selectmen shall publish an annual town report and make it available at least 14 days before the spring town meeting; provided, however, that failure to comply with this section shall not prevent town meeting from proceeding.

### Section 2-4: Special Town Meetings

Special town meetings shall be held at the call of a majority of the full board of selectmen in order to transact the legislative business of the town in an orderly manner. Special town meetings shall also be held on the petition of the lesser of at least 200 voters or 20 per cent of the total number of voters.

### Section 2-5: Warrants

Every town meeting shall be called by a warrant issued by the board of selectmen, which shall state the time and place at which the meeting is to convene and, by separate articles, identify the subject matters to be acted upon. The publication of the warrant for every town meeting shall be in accordance with the General Laws and by-laws governing such matters.

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### Section 2-6: Initiation of Warrant Articles

(a) Initiation - Subject to paragraph (c), the board of selectmen shall receive petitions addressed to it which request the submission of any matter to the town meeting and which are filed by: (1) any town officer; (2) any multiple member body acting by a majority of its members then in office; or (3) any 10 voters for a session of the spring or fall town meeting and (4) any 100 voters for a special town meeting.

(b) Referral - Following receipt of any petition containing a proposed warrant article, the board of selectmen shall deliver a copy of the proposal to the chairman of the finance committee and shall distribute copies of the proposal as may be required by law or by-law.

(c) Inclusion on the Warrant - Spring and Fall Town Meeting - Whenever a spring or fall town meeting is to be called, notice shall be given by posting attested copies of the warrant in at least 2 public places in the town and by publishing notice of the meeting in a local newspaper at least 14 days before the day appointed for the meeting. The board of selectmen shall include in the warrant, for a session of the spring and fall town meeting, the subject matters of all petitions which have been received by it at least 60 days before the date fixed by by-law for such session to convene. Unless specified otherwise in this charter, the content, scheduling and notice requirements for a spring or fall town meeting shall be as provided for in section 10 of chapter 39 of the General Laws for an annual town meeting.

(d) Inclusion on the Warrant - Special Town Meeting - Whenever a special town meeting is to be called, notice shall be given by posting attested copies of the warrant in at least 2 public places in the town and by publishing notice of the meeting in a local newspaper at least 14 days before the day appointed for the meeting. The board of selectmen shall include in the warrant for such special town meeting the subject matters of all petitions which have been received by it at least 20 days before the day appointed for the meeting. Unless specified otherwise in this charter, the content, scheduling and notice requirements for a special town meeting shall be as provided for in section 10 of chapter 39 of the General Laws for a special town meeting.

### Section 2-7: Availability of Town Officials at Town Meetings; Conflicting Meetings

(a) Every town officer, chairperson of each multiple member body, and head of each department and division shall attend all sessions of town meetings.

In the event any town officer, chairperson of a multiple member body, or department or division head shall be absent from a town meeting due to illness or other reasonable cause, that person shall designate a deputy to attend the meeting and represent the office, multiple member body, department or division. If any person designated to attend a town meeting under this section is not a voter, such person shall, nonetheless, have a right to address the meeting for the purpose of fulfilling the objectives of this section.

(b) No meeting of any multiple member body or town agency shall be convened or be in session during a session of any town meeting.

### Section 2-8: Clerk of the Meeting

The town clerk shall serve as clerk of the town meeting, give public notice of all adjourned sessions of the town meeting, record its proceedings, and perform such additional



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duties in connection therewith as may be provided by the law, this charter, by-law or other town meeting vote.

### Section 2-9: Rules of Procedure

The town meeting may, by by-law, establish, amend, revise or repeal rules to govern the conduct of all town meetings.

### Section 2-10: General Powers and Duties

The town meeting shall provide for the exercise of all of the powers of the town and for the performance of all duties and obligations imposed upon the town for which no other provision is made by law, this charter or by-law.

### Section 2-11: Report to the Voters

There shall be published for every town meeting a copy of the warrant, together with its articles, and a report to the voters which shall contain the explanation and relevant data submitted by the proponents of each article; provided, however, that, in the alternative, the town manager may direct that voluminous supporting material necessary for consideration of particular articles, in lieu of inclusion in the written report to the voters, be made reasonably available for inspection at public locations before the town meeting.

The written report for each spring town meeting shall be comprised of the following:

(1) the written report of the planning board setting forth its findings and recommendations as to all zoning articles; (2) the written report of the finance committee, setting forth its findings, conclusions and recommendations, including the reasons therefor, regarding all of the monetary articles in the warrant; and (3) with respect to each warrant article, in addition to the reports of the planning board and the finance committee, the written report of any proponent or sponsor of the warrant article and of any multiple member body or town agency that is required to review, recommend or sponsor the warrant article by by-law, appointment or otherwise.

The report for the spring town meeting shall also include, as an appendix, the capital improvement plan defined in section 6-6, setting forth a 5-year capital outlay program for the information and guidance of town meeting. The board of selectmen shall have the opportunity to include in the report its conclusions and recommendations, including the reasons therefor, regarding articles in the warrant that relate to its general superintendence over the administration of town affairs.

The report shall be made available to residents of the town, by a method determined by the board of selectmen, not later than the seventh day before the date on which the opening session of the spring town meeting is to be held; provided, however, that the failure to make the report available shall not prohibit a town meeting from acting upon the matters set forth in the warrant and shall not affect the validity of the proceedings at a town meeting.

## **ARTICLE 3: ELECTED OFFICERS**

### Section 3-1: General

(a) Elective Town Offices - The town offices to be filled by the voters shall be a town moderator, the board of selectmen, a town clerk, the Groton component of the regional school committee, the Groton Housing Authority, a highway surveyor, the planning board,



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the Groton board of assessors, the board of library trustees, the commissioners of the trust fund, the Groton electric light commission, the Groton water commission, the Groton sewer commission, the parks commission, the Groton board of health, and other officers or representatives to regional authorities or districts as may be established by law or by inter-local agreement which shall also be filled by ballot at town elections.

(b) Town Election - The annual election by ballot of town officers and voting on any questions required by law to be placed upon the official ballot shall be held on a date fixed by by-law.

(c) Eligibility - Any voter shall be eligible to hold any elective town office, unless specifically prohibited by law or by-law.

(d) Compensation - Elected town officers shall receive such compensation for their services as may be appropriated at the spring town meeting for such purpose.

(e) Coordination - Notwithstanding their election by the voters, the town officers named in this section shall be subject to the call of the board of selectmen or of the town manager, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

### (f) Filling of Vacancies

1. Moderator - If there is a failure to elect a town moderator, or if a vacancy occurs in the office of town moderator, the board of selectmen shall appoint a suitable person to serve until the next town election.

2. Elected multiple member body - If there is a failure to elect a member of a multiple member body, or if a vacancy occurs in the membership of an elected multiple member body, the remaining members of the multiple member body shall give notice to the board of selectmen and to the public of the vacancy in accordance with section 7-9. The board of selectmen and the remaining members of the multiple member body shall, not less than 1 week after notice of the date on which the vote is to be taken, fill the vacancy until the next town election by a joint vote. The affirmative votes of the majority of the persons entitled to vote on the vacancy shall be necessary for the election.

3. Board of Selectmen - If there is a failure to elect a member of the board of selectmen, or if a vacancy occurs in the membership of the board of selectmen, the remaining members of the board of selectmen may call a special election to fill the vacancy or shall call the special election upon the written request of at least 200 voters.

### (g) Recall Provision for Elected Officers

1. Application - Any holder of any elective town office may be recalled if the recall election occurs before 6 months from the end of his elective term.

2. Recall Petition - Two per cent of the voters may file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for the recall. The town clerk shall thereupon deliver to the voters making the affidavit copies of petition blanks demanding the recall. The petition blanks shall contain the following heading: "Initiating a recall is a serious process and should not be undertaken

lightly". The blanks shall be issued by the town clerk with his signature and official seal. They shall be dated, addressed to the board of selectmen, contain the names of the first 10 signers of the affidavit and the name of the person whose recall is sought, contain the grounds for recall as stated in the affidavit and shall demand the election of a successor to the office. A copy of the affidavit and recall petition shall be entered in a record book to be kept in the office of the town clerk. The recall petitions shall be returned and filed with the town clerk within 45 days following the date of the filing of the affidavit and shall be signed by at least 20 per cent of the voters as of the date the affidavit was filed with the town clerk.

The town clerk shall, within 1 business day of receipt, submit the petition to the registrar of voters in the town, and the registrar shall, within 5 business days, certify thereon the number of signatures that are names of voters.

3. Recall Election - If the petitions are certified by the registrar of voters to be sufficient, the town clerk shall submit the same with such certificate to the board of selectmen. Upon receipt of the certificate, the board of selectmen shall forthwith give written notice of the petition and certificate by certified mail to the officer whose recall is sought. If said officer does not resign his office within 5 days after delivery of such notice, the board of selectmen shall forthwith order an election to be held on a date fixed by them not less than 64 days nor more than 90 days after the date that the election is called. However, if any other town election is to occur within 100 days after the date the election is called, the selectman shall postpone the holding of the recall election to the date of such other election. If said officer resigns after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

4. Nomination of Candidates - An officer whose recall is sought may be a candidate to succeed to the office if the vote on the recall is in the affirmative. The nomination of other candidates, the publication of the warrant for the recall election and conduct of the recall election shall be in accordance with the laws relating to elections unless otherwise provided in this section.

5. Office Holder - The incumbent shall continue to perform the duties of the office during the recall procedure. If the incumbent is not removed, the incumbent shall continue in the office for the remainder of the unexpired term subject to recall as before. If recalled at the recall election, the incumbent shall be deemed removed.

6. Ballot Proposition - Ballots used in a recall election shall contain the following propositions in the order indicated:

Shall the Town of Groton recall (name of officer) Yes No

Below the propositions shall appear the word "Candidates", the directions to the voters required by section 42 of chapter 54 of the General Laws, and below the directions the names of candidates nominated in accordance with the laws relating to elections. If a majority of the votes cast on the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the recall question is in the negative, the ballots for the candidates shall not be counted.

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7. Repeat of Recall Election - No recall shall be filed against an officer subjected to a recall election and not recalled thereby until at least 6 months after the election at which the recall was submitted to the voters.

8. Office Holder Recalled - No person who has been recalled from an office or who has resigned from an office while recall proceedings were pending against him, shall be appointed to any town office within 2 years after the date of such recall vote or such resignation.

### Section 3-2: Board of Selectmen

(a) Composition, Term of Office - There shall be a board of selectmen consisting of 5 members elected for terms of 3 years each, arranged so that the terms of office of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - The executive powers of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office of the town. The board of selectmen shall possess all of the executive powers that a board of selectmen may possess and exercise, except those powers and duties assigned by this charter, by-law or other town meeting vote to the town manager. The board of selectmen shall:

1. serve as the chief policy making agency of the town;
2. be responsible for the formulation and promulgation of policy to be followed by all town agencies serving under it;
3. in conjunction with other elected town officers and multiple member bodies, develop and promulgate policy guidelines designed to bring all town agencies into harmony; and
4. award and execute all contracts for services and supplies for all departments and agencies of the town, other than the school committee; provided, however, that the board of selectmen, at its sole discretion, may delegate this authority to any town officer or agency.

Other than in the case of an emergency, nothing in this section shall be construed to authorize any member of the board of selectmen, nor a majority of its members, to become involved in the day to-day administration of any town agency.

(c) Licensing Authority - The board of selectmen shall be the licensing board of the town and may issue licenses, make reasonable rules and regulations regarding the issuance of licenses and attach such conditions and restrictions thereto as it deems to be in the public interest; provided, however, that such rules, regulations, conditions and restrictions are not incompatible with applicable law. The board of selectmen shall enforce the laws relating to all businesses for which it issues licenses. The board of selectmen may delegate its licensing authority unless specifically prohibited by law.

(d) Appointing Authority - The board of selectmen shall appoint the town manager, finance committee, town counsel, a zoning board of appeals, and a board of registrars. The board of selectmen shall also appoint, consistent with section 4-2(d), a police chief and a fire chief. The police chief shall serve under section 97A of chapter 41 of the General Laws. The fire chief shall serve under section 42 of chapter 48 of the General Laws.



(e) Investigations - The board of selectmen may investigate the affairs of the town and the conduct of any town agency, including any doubtful claims against the town. Copies of the full text of the report on the results of any such investigation shall be placed on file in the office of the board of selectmen, the office of the town clerk and in the town library and a report summarizing the results of the investigation shall be printed in the next annual town report.

#### **Section 3-3: Regional School Committee**

(a) The Groton-Dunstable Regional School District provides public education, pre-K through high school, and related services to the towns of Groton and Dunstable under the terms of a regional agreement between the towns. Pursuant to the regional agreement, there is a Groton-Dunstable Regional School Committee consisting of 7 members elected for terms of 3 years each, the terms being arranged so that the terms of office of as nearly an equal number of members as possible shall expire each year. The number of members elected by each town is governed by the terms of the regional agreement, as it may be amended.

(b) The Groton-Dunstable Regional School Committee shall have all of the powers and duties which are given to regional school committees under the constitution, laws and regulations of the commonwealth and additional powers and duties as may be authorized by the regional agreement, by-law or other vote of the town meetings of both the towns of Groton and Dunstable.

#### **Section 3-4: Town Moderator**

(a) Term of Office - There shall be a town moderator elected for a term of 3 years.

(b) Powers and Duties - The town moderator shall be the presiding officer of the town meeting, as provided in section 2-2, and shall regulate its proceedings and perform other duties as may be provided by law, this charter, by-law or other town meeting vote.

(c) Appointments - The town moderator shall make appointments provided for by law, this charter, or by-law.

(d) Deputy Moderator - At the first session of the spring town meeting, the moderator shall, in accordance with section 2-2, appoint a voter to serve as deputy moderator.

In the absence of the moderator and the duly ratified deputy moderator at any session of a town meeting, the town clerk shall open the meeting and preside over the election of an acting moderator. In the absence of the moderator the deputy moderator and the town clerk, the presiding officer of the first session of a town meeting shall be determined as provided for by law.

#### **Section 3-5: Groton Housing Authority**

(a) Composition, Term of Office - There shall be a Groton Housing Authority, which shall consist of 5 members, each serving for a term of 5 years. The terms shall be arranged in order that the term of 1 member shall expire each year. The voters shall elect 4 of these members and the fifth member shall be appointed as provided for by law.

(b) Powers and Duties - The Groton Housing Authority shall conduct studies of the housing needs of the community and shall provide programs to make available housing for



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families of low income and for elderly persons of low income. The Groton Housing Authority shall have such other powers and duties as are assigned to housing authorities by law.

### Section 3-6: Planning Board

(a) Composition, Term of Office - There shall be a planning board consisting of 7 members, each elected for a term of 3 years. The terms shall be arranged in order that the terms of as nearly an equal number of members as possible shall expire each year.

(b) Powers and Duties - The planning board shall have those powers and duties given to planning boards under the constitution and laws of the commonwealth and shall also have such additional powers and duties as may be authorized by this charter, by-law or other town meeting vote.

### Section 3-7: Groton Electric Light Commission

(a) Composition, Term of Office - There shall be a Groton Electric Light Commission, which shall consist of 3 members, each serving for a term of 3 years. The terms shall be arranged in order that the term of 1 member shall expire each year.

(b) Powers and Duties - The Groton Electric Light Commission shall set the policy direction of the Groton Electric Light Department, which provides electric power to the town, consistent with chapter 164 of the General Laws. If a provision of this charter shall conflict with said chapter 164, said chapter 164 shall govern.

### Section 3-8: Trustees of the Groton Public Library

(a) Composition, Term of Office - There shall be a board of trustees of the Groton public library, which shall consist of 6 members, each serving for a term of 3 years. The terms shall be arranged in order that the terms of 2 members shall expire each year.

(b) Powers and Duties - The trustees of the Groton public library shall establish written policies governing library activities and services; engage in ongoing planning which assesses the needs and the role of the library in the community; ensure that the library meets the community's needs; work on preparation of the annual library budget and its adoption by the town; monitor and oversee maintenance of the buildings and grounds and regularly review facility needs; hire and evaluate the library director and work with the personnel board on job classifications for all staff; promote the library and act as library advocates in the community; study and support legislation which will benefit the library and the larger community; and have such other powers and duties as provided for by law, this charter and by-law.

(c) Appointments - The trustees of the Groton public library shall appoint the library director and such other appointments as provided for by law, this charter or by-law.

### Section 3-9: Other Elected Officers

Powers and Duties - All other elected officers shall have the powers and duties that have been conferred upon their offices by law, this charter, by-law or other town meeting vote.

**ARTICLE 4: Town Manager**

**Section 4-1: Appointment, Qualifications and Review Procedure**

(a) Pursuant to section 8.5(e), the board of selectmen shall, by an affirmative vote of the majority of the full board, appoint or reappoint a town manager for a term not more than 3 years and fix the compensation of the town manager within the amount annually appropriated for this purpose. Whenever a vacancy shall occur in the office of town manager, the board of selectmen shall appoint a town manager search committee to identify qualified candidates for the position. The office of the town manager shall not be subject to the town's salary administration plan. The town manager shall be appointed solely on the basis of his executive and administrative qualifications. He shall be a professionally qualified person of proven ability, especially fitted by education, training and previous experience to perform the duties of the office. The town manager shall not have served in an elective office in the town government for at least 1 year before his appointment. The town may, by by-law, establish additional qualifications for the town manager as deemed necessary or appropriate.

(b) The position of town manager shall be a full-time position and the town manager shall devote his best efforts to the office and shall not hold any other public office, elective or appointive, nor engage in any business or occupation during his term unless the action is fully disclosed and approved by the board of selectmen in advance, in writing.

(c) The board of selectmen shall provide for an annual review of the job performance of the town manager, which shall, at least in summary form, be a public record in accordance with the personnel by-laws or accepted evaluation process.

**Section 4-2: Powers and Duties**

The town manager shall be the chief administrator of the town and shall be responsible to the board of selectmen for the proper administration of all town affairs placed in his charge by this charter. The powers and duties of the town manager shall include, but shall not be limited to, the following:

(a) To manage, supervise and be responsible for the efficient and coordinated administration of all town functions under his control, as may be authorized by this charter, by-law, other town meeting vote or the board of selectmen, including all appointed officers and their respective departments.

(b) Unless otherwise required by law, this charter or by-law, to manage and coordinate the administrative activities of all town agencies. For this purpose, elected officials or their representatives shall be required to meet with the town manager at reasonable times for the purpose of effecting coordination and cooperation among all town agencies.

(c) To appoint and remove department heads, officers and subordinates and employees for whom no other method of appointment or removal is provided in this charter or by-law. Appointments made by the town manager shall be confirmed by the board of selectmen within 15 days of the date the town manager files notice of the action with the board of selectmen. Failure by the board of selectmen to confirm an appointment within 15

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days shall constitute rejection of the appointment.

(d) Whenever a vacancy occurs in the office of police chief, fire chief or highway surveyor, to select and present at least 2 qualified candidates to the board of selectmen for appointment by the board to the office, as provided for in section 3.2(d).

(e) To act as a negotiator for all collective bargaining agreements to which the board of selectmen is a party.

(f) To conduct annual performance evaluations of all employees subject to his or the board of selectmen's appointment and consult with elected and appointed boards to contribute to the preparation of the evaluations of department heads associated with such boards.

(g) To fix the compensation of town officers and employees appointed by him within the limits established by law, the personnel by-laws, the town's wage and classification schedule or collective bargaining or other agreements.

(h) To attend all regular and special meetings of the board of selectmen, unless excused at his request, and have a voice, but no vote, in all discussions.

(i) To attend all sessions of the town meeting and answer all questions directed to him which are related to the office of the town manager or concerning which he possesses the relevant information.

(j) To see that all laws, this charter, by-laws and other town meeting votes, and directives of the board of selectmen that require enforcement by him or officers or employees subject to his direction and supervision, are faithfully carried out.

(k) To prepare and submit annual operating budgets and capital improvement programs as provided in article 6.

(l) To coordinate the preparation of the town's annual report.

(m) To perform such duties as necessary or as may be assigned by this charter, by-law, town meeting vote or the board of selectmen.

### Section 4-3: Removal and Suspension

(a) The board of selectmen may, by the affirmative vote of 4 members of the board of selectmen, terminate and remove or suspend the town manager from office in accordance with the following procedure:

1. The board of selectmen shall adopt a preliminary resolution of removal, which shall state the reason or reasons for removal, by the affirmative vote of 4 members. The preliminary resolution may suspend the town manager for a period not to exceed 45 days. A copy of the resolution shall be delivered to the town manager within 48 hours of its adoption.

2. Within 7 days after receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for such a hearing with the board of selectmen. This hearing shall be held at a meeting of the board of selectmen not later than 20 nor earlier than 3 days after the request is filed. The town manager may file a written statement responding to the reasons stated in the resolution of removal with the board of selectmen if the same is received at the office of the board of selectmen more than 48 hours before the public hearing.



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3. If the town manager has not requested a public hearing pursuant to paragraph 2 above, the board of selectmen, by the affirmative vote of 4 members of the board of selectmen, may adopt a final resolution of removal not less than 10 nor more than 21 days after the date of delivery of a copy of the preliminary resolution to the town manager. If the town manager has requested a public hearing pursuant to paragraph 2 above, the board of selectmen, by the affirmative vote of 4 members of the board of selectmen, may adopt a final resolution of removal at any time after the hearing but not more than 21 days after the close of the hearing, unless the parties agree to a longer period of time. Failure to adopt a final resolution of removal within the time periods provided in this section shall nullify the preliminary resolution of removal and the town manager shall, at the expiration of said time, resume the duties of the office.

4. Any action by the board of selectmen to terminate, remove or suspend shall be conducted pursuant to section 23B of chapter 39 of the General Laws.

(b) The action of the board of selectmen in terminating, removing or suspending the town manager shall be final.

### Section 4-4: Vacancy in the Office of the Town Manager

(a) Permanent Vacancy - The board of selectmen shall fill any permanent vacancy in the office of the town manager as soon as possible in accordance with section 4-1(a) of this charter. Pending the appointment of a town manager or filling of any vacancy, the board of selectmen shall, within a reasonable period of time, not to exceed 14 days, appoint some other capable person to temporarily perform the duties of the town manager until a permanent replacement is appointed.

(b) Temporary Absence or Disability - The town manager may designate by letter filed with the town clerk and board of selectmen a capable officer of the town to perform the duties of town manager during a temporary absence or disability.

If the absence or disability exceeds 30 days, any designation by the town manager shall be subject to approval by the board of selectmen. If the town manager fails to make such a designation, or if the person so designated is unable to serve, the board of selectmen may designate some other capable person to perform the duties of town manager.

(c) Powers and Duties - The powers and duties of the acting town manager, under (a) and (b) above, shall be limited to matters not permitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment, but not to make permanent appointments or designations unless authorized by the board of selectmen.

### Section 4-5: Screening Committee

Whenever a vacancy shall occur in the office of town manager a screening committee shall be established for the purpose of soliciting, receiving and evaluating applications for the position of town manager. The screening committee shall consist of 5 persons who shall be chosen as follows: the board of selectmen shall designate 2 members, the town moderator, the finance committee and the personnel board shall each designate 1 member. Persons chosen by the said agencies may, but need not, be members of the agency by which they are

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designated.

Not more than 21 days after the notice of the vacancy or pending vacancy the town clerk shall call and convene a meeting of the screening committee who shall meet to organize and to plan a process to advertise the vacancy and to solicit candidates for the office. The committee shall proceed notwithstanding the failure of any town agency to designate its representatives.

The screening committee shall review all applications that are received by it, screen all applications by checking and verifying work records and other credentials and provide for interviews to be conducted with the number of candidates as it deems necessary, desirable or expedient.

Not more than 90 days after the date on which the committee meets to organize, the committee shall submit to the board of selectmen the names of at least 3 but not more than 5 persons whom it believes to be best suited to perform the duties of the office of town manager. The board of selectmen shall, within 20 days after the date of its receipt of the list of nominees, choose a candidate from the list to fill the position of town manager or reject the nominees and direct that the committee resume the search.

Upon appointment of a town manager, the committee established hereunder shall be considered discharged.

### **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 administration of government may be accomplished by any method consistent with law and this charter, including adoption of by-laws, appropriation of funds or adoption of rules and regulations by appropriate entities. Further, the town manager may, with the approval of the board of selectmen and consistent with law and this charter, establish, reorganize, consolidate or abolish any department or position under the town manager's direction and supervision.

#### **Section 5-2: Merit Principle**

All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competency and suitability.

#### **Section 5-3: Department of Finance**

(a) There shall be a department of finance in the town, reporting to the town manager, including an appointed town accountant, an appointed treasurer/collector and an appointed principal assessor. The department shall be responsible for the performance of all the fiscal and financial activities of the town. The town manager shall serve as the finance director; provided, however, that the town manager may, at the town manager's discretion, appoint another person to serve as the finance director. The appointment shall be subject to confirmation by the board of selectmen in accordance with section 4-2(c).

(b) The department of finance shall assume all of the powers, duties and responsibilities related to municipal finance activities which, before to the adoption of this charter, were performed by or under the authority of the town accountant, the tax collector,

the town treasurer and the principal assessor and to the coordination of those activities with the activities of all other town agencies. The department of finance shall have additional powers, duties and responsibilities with respect to municipal finance related functions and activities, as the town may provide by by-law.

(c) The department of finance shall assure that complete and full records of the financial and administrative activities of the town are maintained and shall render written reports, comprising a full accounting of all town administrative and financial operations, to the board of selectmen, not less often than once per calendar quarter. The quarterly reports shall be rendered within 30 days after the end of the calendar quarter to which they apply and shall be made available to the public in accordance with the requirements of section 10 of chapter 66 of the General Laws. Additional reports shall be rendered to the board of selectmen at their request.

(d) The department of finance shall prepare, maintain and present to the board of selectmen and town meeting a 5-year financial plan for the town.

(e) Town Accountant - The town accountant shall be appointed by the town manager for a term not to exceed 3 years. The town accountant shall have all the powers and duties vested in this office by law, this charter, by-laws or other town meeting vote.

(f) Treasurer/Collector - The treasurer/collector shall be appointed by the town manager for a term not to exceed 3 years. The treasurer/collector shall have all the powers and duties vested in this office by law, this charter, by-laws or other town meeting vote.

(g) Principal Assessor - The principal assessor shall be appointed by the town manager for a term not to exceed 3 years. The principal assessor shall have all the powers and duties vested in this office by law, this charter, by-law or other town meeting vote.

## **ARTICLE 6: FINANCE AND FISCAL PROCEDURES**

### **Section 6-1: Fiscal Year**

The fiscal year of the town shall begin on July 1 and shall end on June 30, unless another period is required by the General Laws.

### **Section 6-2: Submission of Budget and Budget Message**

Within the time fixed by by-law, but not later than December 31 of the year immediately preceding the year in which the next spring town meeting is to convene, the town manager, after consultation with the board of selectmen, shall submit to the finance committee a proposed, balanced, operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The town manager shall simultaneously provide for the publication of a general summary of the proposed budget in a local newspaper and the town's website. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. The notice shall further indicate the times and places at which the complete copies of the proposed operating budget are available for examination by the public.

### **Section 6-3: Budget Message**

The budget message of the town manager 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 year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the town's debt position and include other material as the town manager deems desirable or the board of selectmen may reasonably require.

#### **Section 6-4: The Budget**

The proposed operating budget shall provide a complete financial plan for all town funds and activities for the ensuing fiscal year. Except as may otherwise be required by the General Laws, this charter or by-law, it shall be in the form which the town manager deems desirable or the board of selectmen may require. In the presentation of the budget, the town manager shall utilize modern concepts of fiscal presentation so as to furnish information in a complete, clear and concise manner and in accordance with best practices of financial reporting and control. The budget shall show, in detail, all estimated income from the proposed property tax levy and all other sources and all proposed expenditures, including debt service, for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections the following:

(a) 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; and

(b) proposed capital expenditures during the ensuing fiscal year, detailed by town agency and the proposed method of financing each such capital expenditure.

#### **Section 6-5: Action on the Budget**

The finance committee shall, upon receipt of the budget from the town manager, consider in public meetings detailed expenditures for each town department and agency and may confer with representatives of each town agency in connection with its review and consideration. The finance committee may require the town manager, or any town agency, to furnish it with additional information as it may deem necessary to assist it in its review and consideration of the proposed budget. The finance committee shall file with the town clerk, at least 14 days before to the first session of spring town meeting, a report containing its proposed budget and its comments or recommendations regarding differences between its proposed budget and the budget submitted by the town manager. The report shall also be made available to voters of the town by publication on the town's website and by leaving copies of the report at least 3 public places in the town at least 14 days before the first session of spring town meeting. Additionally, copies of the report shall be made available to voters at the first session of spring town meeting. The failure to timely file the budget report with the town clerk or to publicize the report by posting on the town's website or in 3 public places in the town shall not prohibit the town meeting from voting on the budget nor shall it affect the validity of any vote taken thereon at town meeting.

The finance committee's proposed annual town budget shall be presented to the town

meeting by motions made by the finance committee, which shall also present its comments and recommendations with respect to the budget. The town manager or the board of selectmen, or both, shall also present their comments and recommendations, if any, at the town meeting with respect to the budget. The budget shall be voted upon in accordance with the by-laws.

#### Section 6-6: Capital Improvement Plan

The town manager shall submit a capital improvement plan to the board of selectmen and the finance committee at least 6 months before the start of the fiscal year. The plan shall include:

- (a) a clear, concise general summary of its contents;
- (b) 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;
- (c) cost estimates, methods of financing and recommended time schedules for each improvement; and
- (d) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information shall be annually revised by the town manager with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

#### Section 6-7: Audits

The board of selectmen shall provide for an independent audit of all financial books and records of the town, annually and whenever it deems an audit of the whole town or of any particular town agency to be necessary. Audits of the town's financial books and records shall be conducted by a certified public accountant, or a firm of such accountants, having no direct or indirect interest in the affairs of the town.

### **ARTICLE 7: GENERAL PROVISIONS**

#### Section 7-1: Charter Changes

This charter may be replaced, revised or amended in accordance with any procedures made available under the state constitution and laws of the commonwealth.

#### Section 7-2: Severability

The provisions of this charter are severable. If any provision of this charter is held to be invalid, the other provisions of this charter shall remain in full force and effect and shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstances is held to be invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

#### Section 7-3: Specific Provisions to Prevail

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provisions shall prevail.

#### Section 7-4: Number and Gender

Words importing the singular number may extend and be applied to several persons

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or things; words importing the plural number may include the singular; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

### Section 7-5: Rules and Regulations

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk and any such rule or regulation shall become effective on the date of such filing, unless otherwise provided for by law or by-law. Copies of all such rules and regulations shall be made available for review by any person who requests such information pursuant to the public records law.

### Section 7-6: Periodic Charter Review

At least once in every 10 year period after the effective date of this charter, a special committee consisting of 7 members shall, by an affirmative vote of the majority of the full board of selectmen, be established for the purpose of reviewing this charter and reporting its recommendations to the spring town meeting concerning any proposed amendments which the committee may determine to be necessary or desirable. The committee shall consist of 7 members who shall be appointed as follows: the board of selectmen shall designate 3 persons; the finance committee shall designate 2 persons; and the Groton-Dunstable regional school committee and the moderator shall each designate 1 person. Persons appointed may, but need not, be members of the agency by which they are designated. The committee shall meet to organize forthwith after the final adjournment of the spring town meeting. The committee shall hold a public hearing within 30 days after the date on which it meets to organize and at least 1 additional public hearing before filing its final report.

### Section 7-7: Removals

(a) Notwithstanding the provisions of any general or special law to the contrary, any appointed officer, appointed member of a multiple member body or employee of the town not covered by the terms of a collective bargaining or other agreement addressing removal, and whether appointed for a fixed or an indefinite term, may be removed from office by the appointing authority.

(b) The appointing authority, when removing any such officer, appointed member of a multiple member body or employee of the town, shall act in accordance with the town's personnel by-laws or rules and regulations.

### Section 7-8: Loss of Office, Excessive Absence

A person appointed to serve as a member of a multiple member body may be removed from office by the appointing authority if the person exhibits excessive absences from the properly scheduled meetings of the multiple member body.

### Section 7-9: Notice of Vacancies

Whenever a vacancy occurs in any town office, position or position of employment, or whenever by reason of a pending retirement or expiration of a fixed term a vacancy can be anticipated, the appointing authority shall cause public notice of such vacancy to be posted on the town bulletin board for at least 10 days. The notice shall contain a description of the



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duties of the office, position or position of employment and a listing of the necessary or desirable qualifications to fill the office, position or position of employment: No permanent appointment to fill such office, position, or position of employment shall be effective until 14 days after the date the notice was posted to permit reasonable consideration of all applicants. This section shall not apply to positions governed by any collective bargaining or other agreement.

### **ARTICLE 8: TRANSITIONAL PROVISIONS**

#### **Section 8-1: Continuation of Government**

All persons appointed or elected to positions at town agencies shall continue to perform their duties until reappointed, reelected or until successors to their respective positions are duly appointed or elected, or their duties have been transferred and assumed by another town agency in accordance with this charter.

#### **Section 8-2: Continuation of Administrative Personnel**

Any person holding a town office or a position in the administrative service of the town, or any person holding full-time employment under the town, shall retain his office, position or employment, and shall continue to perform the duties of his office, position or position of employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, no person in the permanent full-time service of the town shall forfeit his pay grade or time in the service of the town as a result of the adoption of this charter; provided further, that this section shall not be deemed to provide any person holding an administrative office or position or person serving in the employment of the town on the effective date of this charter with any greater rights or privileges with regard to his continued service or employment with the town than he had before the effective date of this charter. This provision shall not impair any individual employment contract or collective bargaining agreement.

#### **Section 8-3: Transfer of Records and Property**

All records, property and equipment of any office, department or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency, shall be transferred forthwith to the office, department or agency to which such powers and duties are assigned.

**SECTION 2.** (a) Not later than 90 days after the election at which the 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 revisions and amendments as may be needed or necessary to bring them into conformity with the charter and to fully implement the charter. If possible, at least 2 of the persons appointed to the committee shall have been members of the Groton blue ribbon governance committee. The committee shall submit a report, with recommendations, to the spring town meeting in the year following the year in which this charter is adopted. The review shall be conducted under the supervision of the town counsel or by special counsel appointed for that express purpose.

(b) The board of selectmen shall, consistent with this charter and the General Laws,

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have authority to adopt transitional measures in order to clarify, confirm and implement any provision of the charter so that the transition shall be made in the most expeditious and least contentious manner possible.

(c) Until such time as a different form of organization is provided, in accordance with section 5-1 of the charter, the administrative structure of the town, as it is presently constituted at the time of adoption, shall continue to be operative.

(d) All elected members of boards, commissions and committees, who hereafter under the charter shall be appointed, shall serve the balance of the terms for which they were elected, subject to retirement or resignation; thereafter, their successors shall be appointed in accordance with the charter.

**SECTION 3.** This act shall be submitted for acceptance to the voters of the town of Groton at an annual or special town election in the form of the following question which shall be placed on the official ballot:

“Shall an act passed by the general court in the year 2008, entitled ‘An Act providing for the charter for the town of Groton’ be accepted?”

If a majority of the votes cast in answer to the question is in the affirmative, this act shall take effect in the town of Groton, but not otherwise.

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

Approved April 15, 2008.

## Chapter 82. AN ACT ESTABLISHING A COMMUNITY EVENTS FUND FOR THE TOWN OF WAREHAM.

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

**SECTION 1.** There is hereby established in the town of Wareham a Community Events Fund to receive revenue under section 3A of chapter 64G of the General Laws and revenue from the parking meters in the town, as set forth in section 2 of this act; and said town may appropriate monies in the fund to sponsor and support community events, projects, activities, services, programs and public improvements which are of mutual interest to the visitors to, and residents of, the town.

**SECTION 2.** Seventy per cent of the excise collected under section 3A of chapter 64G of the General Laws by the town of Wareham, and 40 per cent of the revenue deposited in the Wareham parking meter fund for the fiscal year beginning July 1, 2007, shall be credited to the Community Events Fund.

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

Approved April 15, 2008.

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**Chapter 83. AN ACT RELATIVE TO THE AFFORDABLE HOUSING TRUST FUND IN THE TOWN OF PROVINCETOWN.**

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

**SECTION 1.** Section 1 of chapter 230 of the acts of 2002 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Expenditures from the Affordable Housing Trust Fund shall be authorized by a majority vote of the Provincetown Community Housing Council.

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

Approved April 15, 2008.

**Chapter 84. AN ACT ESTABLISHING A CHARTER FOR THE TOWN OF MEDWAY.**

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

**SECTION 1.** The following shall be the charter for the town of Medway:

**CHAPTER 1. TOWN INCORPORATION, FORM OF GOVERNMENT, AND POWERS**

**Section 1. Incorporation**

1-1-1 The inhabitants of the town of Medway, within the corporate limits established by law, shall continue to be a body corporate and politic with perpetual succession under the name "town of Medway".

**Section 2. Short Title**

1-2-1 This instrument shall be known and may be cited as the "Medway town charter".

**Section 3. Powers of the Town**

1-3-1 Subject only to express limitations on the exercise of any power or function by a municipality in the Constitution or laws of the commonwealth, it is the intent and purpose of the voters of Medway to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under Article LXXXIX of the Amendments to the Constitution and the laws of the commonwealth.

**Section 4. Division of Powers**

1-4-1 All legislative powers of the town shall be exercised by a town meeting open to all voters. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the board of selectmen unless otherwise specified in this charter.

**Section 5. Construction**

1-5-1 The powers of the town of Medway under this charter shall be construed liberally in favor of the town and the specific mention of any particular power shall not limit



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the general powers of the town of Medway as stated section 1-3-1. To the extent that the provisions of this charter conflict with existing by-laws of the town of Medway, this charter shall govern.

### Section 6. Intergovernmental Relations

1-6-1 Subject to the applicable requirements of the Constitution or laws of the commonwealth, the town of Medway 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 1 or more civil divisions, subdivisions or agencies of any state or the United States government.

### Section 7. Definitions

1-7-1 As used in this charter the following words shall have the following meanings unless the context clearly requires otherwise:

- (a) "Charter", this charter and any amendments to it which may hereafter be adopted.
- (b) "Days", business days, which shall not include Saturdays, Sundays and legal holidays; provided, however, that when the time set is 7 days or more, every day shall be counted unless the term "business days" is clearly noted in the charter.
- (c) "Emergency", a sudden, unexpected, unforeseen happening, occurrence, event or condition which necessitates immediate action and does not refer to financial events which could be or should have been anticipated and planned for in the fiscal budgeting process.
- (d) "Majority vote", a majority of those present and voting, provided that a quorum of the body is present when the vote is taken.
- (e) "Multiple member body", any board, commission, committee, subcommittee or other body consisting of 2 or more persons however constituted.
- (f) "Quorum", a majority of the members of a multiple member body then in office, not including any vacancies which might then exist.
- (g) "Town", the town of Medway.
- (h) "Town agency", any board, commission, committee, department, division or office of the town government.
- (i) "Town bulletin board", shall mean the bulletin board in the town hall on which official town notices are posted and the bulletin boards in other locations within the town which may be designated as town bulletin boards by by-law.
- (j) "Town officer", a person having charge of an office or department of the town who, in the exercise of the powers or duties of that position, exercises a sovereign power of the town.
- (k) "Voters", the registered voters of the town of Medway.
- (l) "Website", the town of Medway's official world wide web internet address.

## CHAPTER 2. LEGISLATIVE BRANCH

### Section 1. Town Meeting

2-1-1 The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

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2-1-2 The town meeting shall meet in regular session at least twice in each calendar year. The first meeting shall be the annual town meeting, and shall be held on the second Monday in May, at such time and in such manner as fixed by by-law, and shall be primarily concerned with the determination of matters involving the expenditure of town funds including, but not limited to, the adoption of an annual operating budget for all town agencies and the determination of other matters to be decided by ballot of voters. The election of town officers shall be held annually on the third Tuesday in May each year, commencing in May of the year following adoption of this charter.

2-1-3 The second town meeting shall be the fall town meeting and shall be held on a date fixed by by-law, but not later than the third Monday in November. The fall town meeting shall be primarily concerned with, but not limited to, the financial condition of the town and actions required to keep the town's revenue and expense budget balanced for the remainder of the current fiscal year.

2-1-4 Special town meetings shall be held at the call of the board of selectmen at such times it deems necessary or when petitioned by the voters in accordance with the General Laws.

### Section 2. Warrants

2-2-1 Every town meeting shall be called by a warrant issued by the board of selectmen which shall state the date, time and place at which the meeting is to be convened and, by separate articles, the subject matter to be acted upon.

2-2-2 The publication of the warrant for every town meeting shall be in accordance with procedures outlined in this charter and town by-laws governing such matters.

### Section 3. Initiation of Warrant Articles

2-3-1 Initiation - The board of selectmen shall accept articles for inclusion in the warrant for the annual town meeting and all special town meetings under section 10 of chapter 39 of the General Laws.

2-3-2 Referral - The board of selectmen, following receipt of a petition containing a proposed warrant article filed with the board of selectmen in accordance with section 2-3-1, shall cause an accepted and signed copy of the proposed warrant article to be delivered to the chairperson or designee of the finance committee, and a copy thereof shall be posted on the town bulletin board and the town's website. The board of selectman shall cause other distributions to be made of each proposed warrant as may be required by law or by-law.

### Section 4. Availability of Town Officials at Town Meetings

2-4-1 Every town officer, elected official, member of a multiple member body, head of a department and head of each division within a department shall attend all sessions of the town meeting for the purpose of providing the town meeting with information and answering questions concerning matters appearing in the warrant.

2-4-2 In the event a town officer or the head of department or division is to be absent due to illness or other reasonable cause, he shall designate a deputy to attend in his place.

2-4-3 If a person designated to attend the town meeting under this section is not a voter, such person may address the town meeting in order to comply with this section.

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### Section 5. Committees

2-5-1 Subject to this charter and to by-laws or other town meeting votes regarding committees, the moderator shall appoint for fixed terms the members of the committees of the town meeting, special or standing, as may be established, other than those established by vote of the town meeting. In addition to such specific powers, duties and responsibilities as may be provided to a town meeting committee by by-law or vote, each committee, when acting within the scope of its authority, may examine the pertinent records of any town agency or department and to consult with any town officer.

2-5-2 Finance committee. There shall be a finance committee, consisting of 9 registered voters of the town, who shall be sworn to the faithful performance of their duties. No elected or appointed town official or employee shall be eligible to serve as a member of the finance committee.

Annually, not later than July 1, an appointment committee consisting of the town moderator, the chairman of the finance committee and the chairman of the board of selectmen, shall appoint 3 members of the finance committee for a term of 3 years in place of those whose terms expire in that year. The appointment committee shall commence its selection process by posting a notice of annual vacancies on the town bulletin board, the town's website and in at least 1 local newspaper of daily circulation not later than 7 days following that year's date of annual town meeting. The appointment committee shall formally interview all applicants and shall appear before the board of selectmen to notify it and the public of its appointments in person at a regularly scheduled public meeting of the board.

Annually, the finance committee shall hold at least 1 public hearing to discuss the subject matter of all articles contained in the warrant for each regular and special town meeting, except those articles subject to public hearings by other multiple member bodies not containing appropriations. The finance committee shall report its recommendations, in writing, on the articles for which it held public hearings in accordance with the board of selectmen's budgeting calendar for the annual town meeting, and at least 10 days before any other town meeting.

No financial article shall be presented to any annual or special town meeting that has not previously been submitted to the finance committee for its review. The finance committee shall have such additional powers and duties as may be provided by the General Laws, by this charter or by by-law.

### Section 6. Clerk of the Town Meeting

2-6-1 The town clerk shall serve as the clerk of the town meeting.

2-6-2 In the event the town clerk is unable to attend a town meeting, he shall designate a person to attend for him. If that person then fails to attend, the town moderator shall appoint a clerk pro tempore.

2-6-3 The town clerk shall give notice of all meetings to the public, keep a journal of its proceedings and perform such other functions as may be required by the General Laws,



by charter, by by-law or by other town meeting vote. Notice of all meetings shall also be posted and on the town's website.

**Section 7. Rules of Procedure**

2-7-1 The town meeting may, by by-law, establish, amend, revise or repeal rules to govern the conduct of town meeting.

**Section 8. General Powers and Duties**

2-8-1 All legislative powers of the town, except as otherwise provided by law or this charter, shall be vested in the town meeting. The town meeting shall provide for the exercise of all powers of the town and for the performance of all duties and obligations imposed upon the town for which no other provision is made in this charter or by law.

**CHAPTER 3. ELECTED OFFICERS**

**Section 1. General Provisions**

3-1-1 The offices to be filled by ballot of the voters of the town shall be the board of selectmen, school committee and town moderator.

3-1-2 In addition to the town offices in section 3-1-1, members of the board of library trustees, Medway Housing Authority, parks and recreation commission, planning and economic development board, board of health, water and sewer commission, town clerk and such other officers or representatives to regional authorities or districts as may be established by law or by inter-local agreement, shall also be filled by ballot at town elections.

3-1-3 Any registered voter of the town shall be eligible to hold an elective town office.

3-1-4 Elected town office holders shall receive such compensation for their services as may be appropriated annually for such purpose. All full-time, paid office holders shall comply fully with all town personnel policies and directives.

3-1-5 Notwithstanding their election by the voters, the town officials named in this section shall be subject to the call of the board of selectmen or the town administrator, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

All appointed and elected officials shall work with each other in a cooperative manner and in the best interests of the town.

3-1-6 Elected multiple member body vacancies. If there is a vacancy in a multiple member board, other than the board of selectmen, the remaining members shall give written notice of the existence of the vacancy to the board of selectmen. The board of selectmen, with the remaining members of the multiple member board, shall fill such vacancy by a joint roll call vote. The board of selectmen shall set a date for the joint vote and give at least 1 week's notice. If the notice is not given within 30 days following the date on which the vacancy occurs, the board of selectmen shall, after 1 week's notice, fill the vacancy without participation by the remaining members of the multiple member body.

3-1-7 If there is a failure to elect or if a vacancy occurs in the office of the board selectmen, it shall be filled in accordance with the General Laws.

3-1-8 If there exists a vacancy in an elected office that is not a multiple member body, the board of selectmen shall provide for notice of such vacancy by posting the vacancy on the town bulletin board and the town's website. Any person who desires to be considered to fill such vacancy shall, within 10 days following the date the notice is posted, file with the board of selectmen a statement which sets forth in clear and specific terms the qualifications which he holds for the position. The board of selectmen shall fill such vacancy no earlier than 14 days and no later than 30 days after the notice was posted. The person who receives a majority of the votes cast at the board of selectmen's meeting shall be the person appointed to fill the vacancy. The person appointed to fill the vacancy shall hold office until the next regularly scheduled annual town election at which time the vacant position shall be included on the ballot.

3-1-9 The town of Medway may, by vote of the town meeting at least 90 days prior to the annual town meeting, determine whether an elected office, board, committee or commission shall be abolished, divided or appointed by the town administrator or board of selectmen, provided, however, that no such vote shall take effect and no action shall be taken thereunder until the matter is submitted to the voters of the town of Medway at the next annual town election in the form of a ballot question and a majority of votes cast is in the affirmative.

#### Section 2. Board of Selectmen

3-2-1 There shall be a board of selectmen consisting of 5 members elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

3-2-2 The executive powers of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office of the town. The board of selectmen shall have all of the executive powers available to it under the Constitution and the General Laws, and such additional powers and duties as may be authorized by by-law, town meeting vote or this charter. The board of selectmen shall serve as the chief policy making agency of the town. The board of selectmen shall be responsible for formulating and promulgating policy directives and guidelines to be followed by all town agencies serving under it and, in consultation with other elected town officers and multiple member bodies, to develop and promulgate policy guidelines designed to bring all town agencies into harmony; provided, however, nothing in this section shall authorize a member of the board of selectmen, nor a majority of such members, to become involved in the day-to-day administration of a town agency. As chief policymaking agency of the town, the board of selectmen shall seek to secure the cooperation of the town's elected boards, committees and officials in the implementation of such policies. The board of selectmen shall be responsible for the efficient and effective coordination of the activities of all elected and appointed boards and committees and, for such purpose, may, consistent with law, call together for consultation, conference and discussion at reasonable times all elected and appointed boards and committees. This provision shall not apply to the school committee.

3-2-3 The board of selectmen shall be the licensing board for the town and shall have the power to grant licenses as authorized under the General Laws, to make all necessary rules and regulations regarding the granting of such licenses, to attach conditions and impose restrictions on any such licenses as it deems to be in the public interest and to enforce all laws, rules, regulations and restrictions relating to all such business for which it grants licenses.

3-2-4 The board of selectmen shall enforce the charter, by-laws and rules and regulations for the government of the town and shall keep an up-to-date record of all its official acts, to be posted and made available on the town's website.

3-2-5 The board of selectmen shall appoint a town administrator for a term not to exceed 3 years. The appointment of town administrator shall be by the affirmative vote of at least 3 members of the board of selectmen, with reappointment by at least 3 affirmative votes of the board of selectmen. Removal of the town administrator shall require the affirmative vote of 4 members of the board of selectmen and in accordance with procedures outlined in section 5-4-1 of this charter.

3-2-6 The board of selectmen shall make appointments as outlined in chapter 9 of this charter, and shall have the authority to make such other appointments as it deems necessary, as provided by the General Laws, by this charter, by by-law or by other town meeting vote.

3-2-7 Notwithstanding any provision of this charter, to the contrary the terms of office of all appointments made by the board of selectmen shall be as currently specified in the General Laws, this charter or by by-law or town meeting vote.

3-2-8 The board of selectmen may investigate or may authorize the town administrator to investigate the affairs of the town and the conduct of any agency of the town, including any doubtful claims against the town. The report of the results of such investigation shall be placed on file in the office of the board of selectmen.

### Section 3. Town Moderator

3-3-1 There shall be a town moderator elected for a term of 3 years.

3-3-2 The town moderator shall be the presiding officer of the town meeting, shall regulate its proceedings, decide all questions of order, ensure that accurate and complete records and minutes of the town meeting are being maintained by the town clerk, and shall have such other powers and duties as may be provided by the General Laws, by this charter, by by-law or by other town meeting vote.

### Section 4. School Committee

3-4-1 There shall be a school committee consisting of 5 members elected for terms of 3 years each so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

3-4-2 The school committee shall have all the powers and duties which are given to school committees by the General Laws and it shall have such additional powers and duties which are given by by-law or other town meeting vote. The powers of the school committee shall include, but not be limited to, the following:



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(1) to appoint and terminate the superintendent of schools and other officers as authorized by the General Laws, to fix their compensation and to define their duties, make rules concerning their tenure and to discharge them.

(2) to make all reasonable policies consistent with the General Laws or state department of education regulations for administration and management of the public school system and for conduct of its own business and affairs, and to review and approve budgets for public education in the district.

(3) to establish educational goals and policies for the schools in the district with the requirements of law and in accordance with statewide goals and standards established by the state board of education.

### Section 5. Town Clerk

3-5-1 There shall be a town clerk elected to serve for a term of 3 years.

3-5-2 The town clerk shall be the keeper of vital statistics for the town and the custodian of the town seal, shall administer the oath of office to all persons, elected or appointed to any office, shall grant licenses and permits as are required by law to be issued by town clerks, shall supervise and manage the conduct of all elections and all other matters relating to elections, shall be the clerk of the town meeting and keep its records and minutes and, in the absence of the town moderator shall preside pending the election of a temporary town moderator. The town clerk shall have such other powers and duties provided to town clerks by the General Laws, by this charter, by by-law or by vote of the town meeting.

### Section 6. Board of Library Trustees

3-6-1 There shall be a board of library trustees consisting of 5 members to be elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.

3-6-2 The board of library trustees shall have the custody and management of the public library and of all property of the town related to the library. All money and property that the town may receive by gift or bequest for the purpose of library support or maintenance shall be administered by the board of library trustees in accordance with the terms of such gift or bequest. The board shall have all of the other powers and duties provided to boards of library trustees by the General Laws, by this charter, by by-law or by vote of the town meeting.

### Section 7. Planning and Economic Development Board

3-7-1 There shall be a planning and economic development board consisting of 5 members to be elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.

3-7-2 The planning and economic development board shall have all the powers and duties provided to planning boards and economic development boards under the General Laws, and shall have such additional powers and duties as may be authorized by the charter or by-laws. The planning and economic development board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of

the town. The planning and economic development board shall provide for the review and updating of the comprehensive master plan at least once every 10 years, setting forth policies governing the future growth and development of the town's economic, developmental and human service needs.

The planning and economic development board shall regulate the subdivision of land within the town by adopting rules and regulations governing such development and the administration of its powers. The planning and economic development board shall make recommendations to the town meeting on all matters affecting land use and development, including zoning by-laws of the town.

The planning and economic development board shall make an annual report, regarding the condition of the town and any plans or proposals for its development and estimates of their costs.

3-7-3 The planning and economic development board shall direct the efforts of the town's industrial development committee and shall appoint the members of the industrial development committee and any other committees as provided by the General Laws and by-law.

#### **Section 8. Board of Health**

3-8-1 There shall be a board of health consisting of 3 members to be elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.

3-8-2 The board of health shall adopt rules and regulations relative to the environment and the public health, and shall have all the powers and duties provided to boards of health under the General Laws, and such additional powers and duties as may be authorized by by-law, by vote of the Town Meeting or by this charter.

#### **Section 9. Water and Sewer Commission**

3-9-1 There shall be a water and sewer commission consisting of 3 members to be elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.

3-9-2 The water and sewer commission shall adopt rules and regulations relative to the municipal water system and sewer system and shall have all the powers and duties provided to water sewer commissions under the General Laws, and such additional powers and duties as may be authorized by by-law, or by vote of the town meeting or by this charter.

#### **Section 10. Housing Authority**

3-10-1 There shall be a housing authority consisting of 5 members serving for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year. Four members shall be elected and the fifth member shall be appointed as provided by the General Laws.

3-10-2 The housing authority shall conduct studies of housing needs of the town and shall provide programs to make available housing for families of low income and for elderly persons of low income. The housing authority shall have all of the powers and duties provided to housing boards and authorities under the General Laws.

Section 11. Park and Recreation Commission

3-11-1 There shall be a park and recreation commission consisting of 3 members to be elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.

3-11-2 The park and recreation commission shall conduct and promote recreation, play, sport, physical education and other programs to meet the leisure time needs of the town. The park and recreation commission shall have all the powers and duties provided to park and recreation commissions under the General Laws and such additional powers and duties as may be authorized by the charter, by by-law or by vote of the town meeting.

Section 12. Recall Provisions

3-12-1 Any holder of an elected office in town may be recalled and removed therefrom by the voters of the town as herein provided.

3-12-2 Two per cent of the qualified voters of the town may make and file with the town clerk an affidavit containing the name of the officer sought to be recalled and removed and a statement of the grounds of removal. The town clerk shall thereupon deliver to the voters making such affidavit a sufficient number of copies of petition blanks for such recall and removal. The blanks shall be issued by the town clerk with his signature and official seal attached thereto, and shall be dated and addressed to the board of selectmen. The blanks shall contain the name of the person to whom issued, the number of blanks so issued, the name of the person sought to be removed, the office from which removal is sought, the grounds for removal as stated in the affidavit and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 30 days after the filing of the affidavit. The petition, before being returned and filed, shall be signed by 10 per cent of the qualified voters, and shall contain the place of residence of the signer, giving the street and number. The recall petition shall be submitted not later than 5 p.m. on the Thursday preceding the day on which it must be filed, to the registrars of voters in the town, and the registrars shall forthwith certify thereon the number of signatures which are names of voters of the town.

3-12-3 If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with this certificate to the board of selectmen without delay, and the board of selectmen shall forthwith give written notice to the officer sought to be recalled of the receipt of the certificate and shall, if the officer does not resign within 5 days thereafter, order a recall election to be held on a day fixed by them not less than 64 nor more than 90 days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within 100 days after the date of said certificate, the board of selectmen may, in its discretion, postpone the holding of the recall election to the date of such other election. If a vacancy occurs in the office after a recall election has been ordered, the election shall proceed as provided in this section.

3-12-4 Any officer sought to be recalled may be a candidate to succeed himself and, unless he requests otherwise in writing, the town clerk shall place his name on the official



ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the same, shall all be in accordance with the laws relating to elections, unless otherwise provided in this charter. A majority of those voting at the recall election shall be sufficient to recall such elected officer.

3-12-5 The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected, he shall continue in office for the remainder of his unexpired term, subject to recall, except as provided in section 3-12-7. If not re-elected in the removal election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within 5 days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

3-12-6 Ballots used in a removal election shall submit the following propositions in the order indicated:

For the removal of (name of officer)

Against the removal of (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of such propositions. Under the proposition shall appear the word "Candidates" and the direction "Vote for one" and beneath this the names of candidates nominated as hereinbefore provided.

If a majority of the votes cast on the recall question is in the affirmative, then the candidate that received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes cast is in the negative, then the ballots for candidates to fill the potential vacancy need not be counted.

3-12-7 No recall petition shall be filed against an officer within 3 months after he takes office, nor in the case of an officer subjected to a removal election and not removed thereby, until at least 3 months after such election.

3-12-8 No person who has been removed from an office by a recall election, or who has resigned from office while removal proceedings were pending against him, shall be appointed to any town office within 2 years after such recall or resignation.

**CHAPTER 4. APPOINTED OFFICERS**

**Section 1. General Provisions**

4-1-1 In accordance with section 3-2-6, the board of selectmen shall appoint the town administrator, town counsel, board of assessors, zoning board of appeals, affordable housing committee, capital improvements committee, conservation commission, Charles River P.C.D. Rep., those members of the community preservation committee as provided by town by-law, and other committee or commission representatives as required by the General Laws, charter or by-law.

4-1-2 The Board of selectmen shall appoint the board of assessors, comprised of 3 members, each appointed to serve staggered terms of 3 years each. The town administrator shall appoint the administrative assessor, in accordance with section 6-4-5.

4-1-3 The board of selectmen shall appoint an independent external auditor, who shall report to the board of selectmen and ensure compliance with the finance and fiscal procedures provided in this charter.

4-1-4 Consistent with the Tri-County regional vocational technical high school charter, a committee of 3, made up of the chairman of the board of selectmen, chairman of the Medway school committee, and the town moderator, shall appoint a resident of Medway for a 3 year term, to represent the town of Medway on the Tri-County regional vocational technical high school committee.

4-1-5 All town agency appointments by the board of selectmen, including those made by the town administrator, shall be for terms not to exceed 3 years, unless otherwise stated in this charter or required by town by-law or the General Laws.

## **CHAPTER 5. TOWN ADMINISTRATOR**

### **Section 1. Appointment; Qualifications; Term of Office**

5-1-1 The town administrator appointed by the board of selectmen for a 3 year term, shall be the chief administrative officer of the town and be responsible for the administration of all town affairs placed in his charge by or under the charter. The town administrator shall be a person especially fitted by education which shall consist of at least a bachelor's degree from an accredited degree-granting college or university and a minimum of 7 years of professional experience which shall include previous, full-time, compensated service in a managerial capacity in public or business administration.

5-1-2 The town administrator need not be a resident of the town or the commonwealth at the time of appointment. He must establish residence within the commonwealth and within reasonable proximity of the town, as determined by the board of selectmen, within 12 months following his appointment.

5-1-3 The town administrator shall hold no elected office or other appointed town office, shall devote full time to the duties of the office and shall engage in no other business or occupation without written authorization of the board of selectmen.

5-1-4 The town administrator shall not have served in an elected office in the town government for at least 12 months prior to his appointment.

5-1-5 The board of selectmen shall evaluate annually the performance of the town administrator, based on mutually established pre-determined goals, standards and criteria for performance.

5-1-6 The board of selectmen may establish additional duties or qualifications for the office of town administrator. The town administrator shall perform such other duties consistent with the office as may be required by the by-laws, or by vote of the selectmen or town meeting.

### **Section 2. Powers and Duties**

5-2-1 The town administrator shall be the administrative officer for the town and shall be responsible to the board of selectmen for the proper operation of town affairs for which the town administrator has been given responsibility under this charter, by vote of the town meeting or by vote of the board of selectmen.

5-2-2 The town administrator shall have all the powers, duties and responsibilities of appointing and removing all technical and operational positions of the town, including all department heads, officers, subordinates and employees of the town, except for employees of the school committee and library trustees, appointments made by the commonwealth and those appointments for which another method of appointment is provided for in this charter. The town administrator shall consider the recommendations of department heads, committees and commissions when making any appointment within their respective areas. Department heads, committees and commissions shall be notified in writing, prior to the town administrator making any appointment within their respective areas, if the appointment is other than the recommendation of said department heads, committees and commissions.

5-2-3 The town administrator shall direct and supervise the administration of all functions under his control and shall be responsible for the efficient and proper operation of all town agencies and departments, with the exception of the school department and public library.

5-2-4 The town administrator shall coordinate the activities of the town with the school department, library and other departments, which may not be under the direct control of the town administrator.

5-2-5 The town administrator shall be the chairman of the town financial review team, and shall establish monthly meetings of the financial review team to ensure timely review of all financial matters affecting the town, including a review of all major variances to the budget. Reports on variances and matters of importance shall be timely provided to the board of selectmen, finance committee and school committee.

5-2-6 The town administrator shall prepare and submit to the board of selectmen, finance committee and capital improvement committee, the annual capital outlay program. The library and school department shall provide the town administrator with their capital outlay programs.

5-2-7 The town administrator shall attend and may participate in all meetings of the board of selectmen, unless excused at his own request, but shall have no vote.

5-2-8 The town administrator shall attend all sessions of the town meetings and answer all questions directed to him by the voters.

5-2-9 The town administrator, may attend all meetings of the school committee and shall have a voice in all discussions. The town administrator shall have no vote at school committee meetings, except as authorized under chapter 150E of the General Laws for the purpose of negotiating union contracts.

5-2-10 The town administrator shall see that all provisions of the General Laws, of the charter, of by-laws and of votes of the town meeting and of the board of selectmen which require enforcement by him or officers subject to his direction and supervision are faithfully carried out.

5-2-11 The town administrator shall administer all provisions of general and special laws applicable to the town, to the charter, to the by-laws and votes of the town, and all rules and regulations made by the board of selectmen.



5-2-12 The town administrator shall negotiate all contracts involving any subject within the jurisdiction of the office of town administrator, including contracts with all town employees, as provided in the General Laws, excluding contracts with the director of the public library and other professional librarians, who shall be the responsibility of the library trustees.

5-2-13 The town administrator shall have full jurisdiction over the leasing, rental and use of all town facilities, including land and buildings, except land and buildings under the control of the school committee, library trustees, park and recreation commission and conservation commission. He shall be responsible for the maintenance and repair of all town property, excluding school buildings and the library.

5-2-14 The town administrator, pursuant to chapter 30B of the General Laws shall be the certified chief procurement officer responsible for the purchase of all supplies, materials and equipment, except books and other educational materials for schools, and books, supplies, materials, equipment and other media materials for the library. He shall approve the award of all contracts for all town departments, except the school department and public library, subject to the approval of the board of selectmen.

5-2-15 The town administrator shall keep full and complete records of the financial and administrative activities of the town and shall render a full report to the board of selectmen at the end of each fiscal year and otherwise as the board may require.

5-2-16 The town administrator shall keep a full and complete inventory of all real and personal property of the town.

5-2-17 The town administrator may at any time inquire into the conduct of any officer or employee of any department under his jurisdiction.

### **Section 3. Acting Town Administrator**

5-3-1 The town administrator, by letter filed with the board of selectmen and town clerk, shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of town administrator during a temporary absence of the administrator. During a temporary absence, the board of selectmen shall not revoke the designation until at least 10 business days have elapsed, whereupon it may appoint another qualified town administrative officer or employee until the town administrator returns.

5-3-2 Any vacancy in the office of the town administrator shall be filled as soon as possible by the board of selectmen. Pending such regular appointment, the board of selectmen shall appoint a qualified administrative officer to perform the duties of the office on an acting basis. Such temporary appointment shall not exceed 3 months, but 1 renewal may be voted by the board of selectmen not to exceed the second 3 months. Compensation for such person shall be set by the board of selectmen.

5-3-3 The powers of temporary or acting town administrator under sections 5-3-1 and 5-3-2 shall be limited to matters which should not be delayed and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

Section 4. Removal and Suspension

5-4-1 The board of selectmen may for just cause, by the affirmative vote of 4 of its members, terminate and remove, or suspend, the town administrator from office in accordance with the following procedure:

(a) The board of selectmen shall adopt a preliminary resolution of removal or suspension by affirmative vote of 4 members which shall state the reason or reasons for removal or suspension. This preliminary resolution may suspend the town administrator for a period not to exceed 45 days. A copy of the resolution shall be delivered to the town administrator forthwith.

(b) Within 5 days after receipt of the preliminary resolution the town administrator may request a public hearing by filing a written request for such hearing with the board of selectmen. This hearing shall be held at a meeting of the board of selectmen not later than 30 days after the request is filed nor earlier than 20 days. The town administrator may file a written statement responding to the reasons stated in the resolution of removal or suspension with the board of selectmen provided the same is received at its office more than 48 hours in advance of the public hearing.

(c) The board of selectmen may adopt a final resolution of removal or suspension, which may be made effective immediately, by the affirmative vote of 4 of its members not less than 10 nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the town administrator, if the town administrator has not requested a public hearing; or within 10 days following the close of the public hearing if the town administrator has requested one. Failure to adopt a final resolution of removal or suspension within the time periods as provided in this section shall nullify the preliminary resolution of removal or suspension and the town administrator shall at the expiration of said time resume the duties of the office.

(d) Faced with action by the board of selectmen to terminate, remove or suspend, the town administrator shall be afforded all of the provisions provided municipal employees under section 23B of chapter 39 of the General Laws.

5-4-2 The action of the board of selectmen in suspending or removing the town administrator shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension and removal solely in the board of selectmen.

5-4-3 Any appointed officer, member of a multiple member body or employee of the town, whether appointed for a fixed or an indefinite term and not subject to the General Laws, or covered by the terms of a collective bargaining agreement which provides a different method, may be suspended or removed from office, without compensation, by the appointing authority for good cause. The term "good cause" shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming to the office.

5-4-4 Any appointed officer, member of a multiple member body or employee of the town may be suspended from office by the appointing authority if such action is deemed by

the authority to be necessary to protect the interests of the town. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure stated in section 5-4-5.

5-4-5 The appointing authority, when removing any officer, member of a multiple member body or employee of the town, shall act in accordance with the following procedure:

(a) A written notice of the intent to remove and a statement of the cause therefor shall be delivered in hand, or by registered or certified mail, return receipt requested, to the last known address of the person sought to be removed.

(b) Within 5 days following delivery of such notice, the officer, member of a multiple member body or employee of the town may request a public hearing at which such person may be represented by counsel, and shall be entitled to present evidence, call witnesses and question any witness appearing at the hearing.

(c) Between 1 and 10 days after the public hearing is adjourned or, if the officer, member of a multiple member body or employee of the town fails to request a public hearing between 6 and 15 days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the officer, member of a multiple member body or employee of the town or notifying such that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the officer, member of a multiple member body or employee shall forthwith be reinstated.

(d) Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when the original term expires.

#### **Section 5. Loss of Office, Excessive Absence**

5-5-1 If any person appointed as a member of a multiple member body fails to attend 4 consecutive meetings, or one half of all of the meetings of such body held in a calendar year, the remaining members of the multiple member body may, by a majority vote of the remaining members of such body, declare the office vacant; provided, however, that not less than 10 days prior to the date the vote is scheduled to be taken, the body has given in hand, or mailed by registered or certified mail, return receipt requested, of such proposed or pending vote to the last known address of such person.

#### **Section 6. Resolution of Policy Conflicts**

5-6-1 The board of selectmen shall maintain an "open door" policy, and shall establish procedures for addressing policy conflicts, should they arise between or among either appointed or elected town officials, which could impact the health, safety or welfare of the town.

### **CHAPTER 6. ADMINISTRATIVE ORGANIZATION**

#### **Section 1. Organization of Town Agencies**

6-1-1 The organization of the town into operating agencies and departments for the provision of services and the administration of the government may be accomplished through either of the methods provided in this chapter.



6-1-2 The town administrator, after consultation with the board of selectmen, may prepare and submit to the town meeting plans for organization or reorganization which establish operating agencies and departments for the orderly, efficient or convenient conduct of the business of the town.

Whenever the town administrator prepares such a plan, the board of selectmen shall hold at least 1 public hearing on the proposal giving notice by publication in a local newspaper, posting on the town bulletin board and posting on the town's website. The notice shall describe the scope of the proposal and the date, time and place at which the hearing will be held, not less than 7 nor more than 14 days after the publication. Following such public hearing, the proposal, which may be amended subsequent to the public hearing, shall be submitted to the town meeting by an appropriate warrant article.

6-1-3 An organization or reorganization submitted in compliance with section 6-1-2 shall become effective 60 days after the date of adjournment of the town meeting at which the required quorum was present and the proposal was submitted, unless the town meeting shall, by a majority vote, vote to disapprove the plan. The town meeting shall vote only to approve or disapprove the plan, not to amend or alter it.

6-1-4 The town administrator, for the purpose of implementing changes approved under section 6-1-2 and section 6-1-3, may transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriations of 1 town agency to another; provided, however, that no function assigned by this charter to a particular town agency may be discontinued or, unless this charter so specifically provides, be assigned to any other.

#### Section 2. Department of Public Services

6-2-1 There shall be a department of public services, under the direction of a director of public services, who shall be either the town administrator or a director of public services appointed by the town administrator. The director of public services shall be a person especially fitted by education, training, or previous experience to perform the duties of the office.

6-2-2 The director of public services shall be responsible for the supervision and coordination of all public services operations of the town which are placed under his control by this charter, by by-law, by vote of the town or otherwise. Public services operations may include, but need not be limited to, the following operations: refuse collection and disposal, sewer, water supply and distribution, forestry services and maintenance of town infrastructure, including town buildings, roads, parks and cemeteries.

6-2-3 Other offices, the functions of which are related to a department of public services, may be assigned to the department in accordance with by-laws.

#### Section 3. Finance Director

6-3-1 There shall be a finance director appointed by the town administrator, who may simultaneously serve as the town accountant or treasurer-collector. The finance director shall be responsible for all matters dealing with town finance. The appointed treasurer-collector,

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appointed town accountant and appointed administrative assessor shall report to the finance director.

6-3-2 The finance director shall provide the coordination of all financial services and activities and provide assistance to all other town departments in any matter related to finances; and other such functions related to the fiscal management and planning of the town.

6-3-3 The finance director and other officers and employees of the finance office shall operate in matters related to finance under the oversight and direction of the town administrator and shall assist the town administrator in providing required and interim reports and preparing materials for the budget process, as required under section 2 of chapter 7.

6-3-4 The town administrator shall serve as chairman of the financial review team which shall be comprised of the following town officers: town administrator, town finance director, town treasurer/collector, town accountant, administrative assessor, town human resource director, school business manager and town management information systems director.

### Section 4. Treasurer-Collector, Town Accountant, and Administrative Assessor

6-4-1 The town administrator shall appoint for a 3 year term a treasurer-collector who shall report to the finance director, as provided in section 6-3-1.

6-4-2 The treasurer-collector shall provide for the administrative, supervisory and technical work involving the timely receipt, disbursement and investment of town funds, the borrowing of monies and the timely collection of all taxes and fees, as determined by by-law or town meeting vote, due the town or any agency of the town.

6-4-3 The town administrator shall appoint for a 3-year term a town accountant, who shall report to the finance director, as provided in section 6-3-1.

6-4-4 The town accountant shall be responsible for the administrative, supervisory and technical work involved in keeping detailed, complete and accurate general ledger and accounting records for the town.

6-4-5 The town administrator shall appoint for a 3-year term an administrative assessor who shall report to the finance director, as provided in section 6-3-1.

6-4-6 The town administrative assessor shall be responsible for the administrative, supervisory and technical work involving the valuation and assessment of real and personal property within the town.

### Section 5. Human Resource Director

6-5-1 There shall be a town human resource director, who shall be either the town administrator or a human resource director appointed by the town administrator. The human resource director shall administer the town personnel system, except employees of the school department, including, but not limited to, personnel policies and practices, rules and regulations, and all collective bargaining agreements entered into by the town. The human resource director shall serve the entire town as personnel administrator, and perform the functions of contract negotiations with town employees, town agencies, union organizations,

personnel associations, insurance carriers, state agencies and investment advisors, as directed by the town administrator.

6-5-2 The town personnel system shall provide for timely background reviews and proper security authorization of all town employees, job descriptions for every employee, performance appraisals and reviews and maintenance of all personnel records, contracts and collective bargaining agreements.

6-5-3 All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness by examination or other evidence of competence and suitability. The human resources director shall ensure the town personnel system contains an employee classification plan, compensation plan, promotion policy, disciplinary policy and grievance procedures.

#### **Section 6. Director of Management Information Systems**

6-6-1 There shall be a management information systems director for the town. This individual shall be a shared resource between town agencies, the school department and library. The management information systems director shall be jointly appointed by the town administrator and the superintendent of schools, and shall report to the town administrator.

6-6-2 The management information systems director, working in collaboration with all town departments, shall be responsible for establishing uniform standards, operating procedures, security policies for all hardware and software applications across the entire town, and development of a long term technology plan.

#### **Section 7. Inspectional Services Department**

6-7-1 There shall be a department of inspectional services which shall report to the town administrator, which shall include the inspector of buildings who shall serve as the zoning enforcement officer, inspector of weights and measures, wiring inspector, gas and plumbing inspector and any other code enforcement inspectors required by the General Laws.

6-7-2 The department of inspectional services shall provide for the consolidation of inspection operations, coordination of functions, centralized planning of work assignment and distribution, timely inspection services, centralized record keeping and management of manpower resources.

6-7-3 The town administrator shall appoint the inspector of buildings, the inspector of weights and measures, wiring inspector, gas and plumbing inspector, health agent and zoning enforcement officer, each for a term of 3 years and in accordance with the General Laws. The town administrator may appoint assistants to any of the referenced inspectors in this section, as provided by town by-law or town meeting vote.

#### **Section 8. Publication of the Charter, By-Laws, Organization Chart and Personnel Plan**

6-8-1 For the convenience of the public, the town charter, by-laws, organization chart and staffing plan, as prepared by the town administrator, shall be published and available on the town's website. The school committee and the library trustees shall provide the town administrator with copies of their respective staffing plans annually for publication on the



town's website. The town administrator shall ensure the timely publication and availability of all information cited in this section.

**CHAPTER 7. FINANCE AND FISCAL PROCEDURES**

**Section 1. Fiscal Year and Duties**

7-1-1 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 under the General Laws.

7-1-2 The finance committee, acting on behalf of the towns residents, shall be responsible for the timely and thorough review of all financials statements, forecasts, and recommendations to be presented in conjunction with warrants for expenditures at the annual town meeting, as authorized under section 6 of chapter 2.

**Section 2. Budget Process**

7-2-1 Annually, before October 1, the board of selectmen, with the assistance of the town administrator and financial review team, shall establish and issue a budgeting calendar, which shall set forth the scheduled calendar dates relating to the development of the town's annual operating budget for the ensuing fiscal year.

7-2-2 The schedule shall comply with all of the Massachusetts department of revenue reporting deadlines, unless deviation therefrom is recommended by the town administrator and approved by the board of selectmen and the finance committee.

7-2-3 Annually, before October 1, the town administrator shall receive from the board of selectmen, finance director, treasurer-collector, town accountant and the board of assessors the estimated revenues for the ensuing fiscal year. Upon receipt of any additional specific fiscal data provided by the commonwealth or any other source, the above officials shall within 10 business days revise, update and submit the data forthwith to the town administrator.

7-2-4 Annually, before November 1, the board of selectmen, after consultation with the town administrator shall issue a policy statement that establishes the general guidelines for the next fiscal year's town budget.

7-2-5 All agency and department heads and all multiple member bodies, including the school department and library, shall submit the next fiscal year's detailed budget to the town administrator, in accordance with the board of selectmen's budgeting calendar and guidelines.

7-2-6 The town administrator shall submit to the board of selectmen, in accordance with the board of selectmen's budgeting calendar, a comprehensive draft budget for all town functions for the next fiscal year and an accompanying budget message.

7-2-7 The draft budget message shall explain the draft budget in fiscal terms and in terms of what specific projects are contemplated for the next year. It shall:

- (a) outline the proposed financial policies of the town for the next year;
- (b) describe the important features of the budget;
- (c) indicate any major changes from the current fiscal year in financial policy, expenditures and revenues, together with reasons for such changes;

(d) summarize the town's debt position; and

(e) include such other material as the town administrator may deem appropriate.

7-2-8 The draft budget shall provide a complete financial plan for all town funds and activities and it shall be in such form as the town administrator, in consultation with the financial review team and finance committee, may establish. The draft budget shall indicate proposed expenditures for town and school department operations and for capital projects during the ensuing year, detailed by each town agency and by specific purposes and projects.

7-2-9 The board of selectmen shall, within 30 days following the submission of the draft budget by the town administrator, adopt a proposed budget, with or without amendments, and shall submit it to the finance committee. The board of selectmen shall also transmit the budget request of the school committee, with its recommendations thereon, to the finance committee.

7-2-10 The finance committee shall conduct at least 1 public hearing on the proposed budget, including the school budget, and shall issue printed recommendations and detailed explanations and of all financial articles in an annual finance committee report, in accordance with the board of selectmen's budgeting calendar. In preparing its recommendations, the finance committee may require the town administrator, any town agency or department, office, board, commission or committee to appear and furnish it with appropriate additional financial reports and budgetary information.

7-2-11 The board of selectmen shall meet with and consider all finance committee recommendations and present its proposed budget to the town meeting, with or without finance committee changes thereto.

7-2-12 The finance committee shall present its recommendations to the town meeting and shall be given first opportunity at town meeting to move amendments to the budget.

### Section 3. Budget Tracking

7-3-1 The finance director shall ensure the timely monitoring, at least monthly, of actual revenues and expenditures to budget of all town agencies and departments, including the school department and library, throughout the town's fiscal year. All variances to budget shall be included in a monthly report to the board of selectmen and finance committee.

7-3-2 Wherever variances to budget exist, the board of selectmen will ensure that corrective action is taken by each agency or department to bring the town's total revenues and expenses in line. Annually, at the fall town meeting, the board of selectmen will report all significant, anticipated and actual, variances to budget and the corrective actions being taken to bring the total revenues and expenses in line.

### Section 4. Long Term Budget

7-4-1 Annually, the town administrator shall update a 5 year revenue and expense budget. Budget guidelines shall be issued based upon revenue projections.

## **CHAPTER 8. GENERAL PROVISIONS**

### Section 1. Charter Changes

8-1-1 This charter may be replaced, revised or amended in accordance with any procedures made available under the Massachusetts Constitution and the General Laws to

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implement the constitutional provisions.

### Section 2. Severability

8-2-1 The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstances is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

### Section 3. Specific Provisions Prevail

8-3-1 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 4. Number and Gender

8-4-1 Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include a singular person or thing; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

### Section 5. Rules and Regulations

8-5-1 A copy of the rules and regulations adopted by a town agency shall be filed in the office of the town clerk, shall be posted on the town's website, and shall become effective immediately upon filing.

### Section 6. Periodic Review, Charter and By-Laws

8-6-1 Once every 7 years, a special committee consisting of 5 members shall be established for the purpose of reviewing this charter and to make a report, with recommendations, to the town meeting concerning any proposed amendments which said committee may determine to be necessary or desirable. The 5 members of the committee shall be chosen as follows: the board of selectmen, the school committee, the library trustees, the finance committee, and the town moderator shall each designate 1 person. Persons designated by said agencies may be members of the agency by which they are designated. The committee shall meet to organize forthwith following the final adjournment of the annual town meeting.

8-6-2 The board of selectmen shall immediately, upon adoption of this charter, and thereafter at 5 year intervals, in each year ending in 8 or 3, prepare a special committee for that purpose, a proposed revision or modification of all by-laws of the town which shall be presented to the town meeting in the year following the year in which the committee is appointed. The committee in its final or its interim report shall include recommendations for such substantive change in town by-laws as it deems necessary or advisable. The review of town by-laws shall be in conjunction with town counsel or special counsel retained for that purpose. After enactment by the town meeting, copies of the revised by-laws shall be forwarded to the attorney general for approval and shall be published as required by the General Laws. Copies of the revised by-laws shall be made available for distribution to the public and shall be posted on the town's website.



## **CHAPTER 9. OTHER PROVISIONS**

### **Section 1. Town Administrative Organization**

9-1-1 Until a different form of organization shall be provided for, in accordance with chapter 6, the following outline of administrative organization shall be operative:

(1) The board of selectmen shall appoint the town administrator, the town counsel, the affordable housing committee, the board of assessors, the board of registrars, the zoning board of appeals, the capital improvement committee, the conservation commission, the Charles River pollution control district representatives, the disability commission representative, the conservation commission representatives, the Norfolk county advisory board representative, the southwest advisory planning committee representative, the external auditor, the historical commission, the memorial committee, the cultural council, the council on aging and the constables.

(2) The town moderator, chairman of the board of selectmen, and the current chairman of the finance committee shall appoint the finance committee.

(3) The town administrator shall appoint the police chief; the fire chief; the administrative assessor; the treasurer/collector; the finance director; the town accountant; the director of public services; the code enforcement officers, including officers enforcing building, wires, plumbing and gas codes, and the sealer of weights and measures; the zoning enforcement officer; the human resource director; the management information systems director, in conjunction with the school superintendent; the planning coordinator; the health agent; the senior center director; the veterans agent and grave officer; the emergency management director; the tree warden/moth agent; all other town employees except those appointed by the school committee and library trustees; and other committees and commissions of the town defined by the General Laws, the charter or by-law.

(4) The library trustees shall appoint the director of the public library and other professional librarians.

(5) The school committee shall appoint the superintendent of schools.

## **CHAPTER 10. TRANSITIONAL PROVISIONS**

### **Section 1. Continuation of existing laws**

10-1-1 All general or special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when this charter takes effect and which are not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation. If any provision of this charter is found to be inconsistent with any general or special law, the provision 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 2. Continuation of Government**

10-2-1 All town agencies shall continue to perform their duties until reappointed, reelected or until successors to their respective positions are duly appointed or elected, or their duties have been transferred and assumed by another town agency in accordance with the provisions of this charter.

**Section 3. Continuation of Personnel**

10-3-1 Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this charter for the performance of his duties by another person or agency; provided, however, no person in the permanent full time service of the town shall forfeit his pay grade or time in the service of the town as a result of the adoption of this charter.

10-3-2 Upon the effective date of the adoption of this charter, the incumbents serving as members of the board of assessors shall continue to serve in said offices for the balance of the terms for which they were elected. Upon the expiration of said terms of office or if a vacancy shall sooner occur, the members of such offices shall be appointed by the board of selectmen.

**Section 4. Transfer of Records and Property**

10-4-1 All records, property and equipment whatsoever of any office, department or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency shall be transferred forthwith to the office, department or agency to which such powers and duties are assigned.

**SECTION 2.** Following the annual town meeting to be held in May 2008, all 9 finance committee seats shall be deemed vacant. Not later than July 1, 2008, the appointment committee, which for purposes of these initial appointments only shall include the immediate past chairman of the finance committee, shall select 3 applicants to fill 1-year terms, 3 applicants to fill 2-year terms and 3 applicants to fill 3-year terms.

**SECTION 3.** The charter shall become effective upon its adoption by the voters of the town, except as otherwise provided in this section.

(a) Forthwith following the adoption of the charter, the town administrator shall engage legal counsel for the town to revise the existing by-laws of the town in order to fully implement the charter and bring the town by-laws in conformity with the charter. Town counsel shall submit a report and recommendations to the town meeting for adoption by a warrant article at a session of the town meeting held not later than the annual town meeting in the year following the year in which the charter is adopted.

(b) The board of selectmen may adopt measures which have the force of transitional provisions of the charter in order to clarify, confirm or extend any provision of the charter in order that the transition may be made in the most expeditious and the least contentious manner possible.

(c) Within 12 months following the adoption of the charter, the town administrator shall appoint a human resources director in accordance with section 6-5-1 of the charter.

(d) Within 12 months following the adoption of the charter, the town administrator shall appoint a finance director in accordance with section 6-3-1 of the charter. Upon the appointment of a finance director, a financial review team shall be established.

(e) Within 12 months following the adoption of the charter, the town administrator shall appoint a public services director in accordance with section 6-2-1 of the charter.

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(f) Within 24 months following the adoption of the charter, the town administrator, in consultation with the school superintendent, shall appoint a management information systems director in accordance with section 6-6-1 of the charter.

(g) Within 24 months following the adoption of the charter, the town administrator shall establish a centralized procurement system for the town in accordance with chapter 30B of the General laws and section 5-2-14 of the charter.

(h) At the next annual town election following the effective date of the charter, only 1 member of the school committee shall be elected and, until then, the 6 incumbent members shall remain in office.

(i) The members of the planning board in office on the date that the charter takes effect shall serve as members of the planning and economic development board during their current terms of office. As the term of each current member of the planning board expires, a member of the planning and economic development board shall be elected at the annual town election in accordance with the charter.

(j) The members of the park commission in office on the date that the charter takes effect shall serve as members of the park and recreation commission during their current terms of office. As the term of each current member of the park commission expires, a member of the park and recreation commission shall be elected at the annual town election in accordance with the charter.

**SECTION 4.** The charter set forth in this act shall be submitted to the voters of the town of Medway 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 the Town of Medway accept the provisions of An Act passed by the general court entitled ‘An Act Establishing a Charter for the town of Medway’, be accepted?” A fair and accurate summary of the provisions of this charter prepared by town counsel shall also be placed on the official ballot.

If a majority of votes cast in answer to this question is in the affirmative, the charter shall then take effect.

**SECTION 5.** Section 4 shall take effect upon its passage.

Approved April 15, 2008.

## Chapter 85. AN ACT ALLOWING TOWN MEETINGS TO BE HELD IN JUNE.

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

**SECTION 1.** Section 9 of chapter 39 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 6, the words “or May” and inserting in place thereof the following words:- , May or June.

**SECTION 2.** Section 9A of said chapter 39, as so appearing, is hereby amended by



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striking out, in lines 6 and 9, the words “or May” and inserting in place thereof, in each instance, the following words:- , May or June.

Approved April 15, 2008.

**Chapter 86. AN ACT FINANCING IMPROVEMENTS TO THE COMMONWEALTH’S TRANSPORTATION SYSTEM.**

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

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

**SECTION 1.** To provide for a program of transportation development and improvements, the sums set forth in sections 2 to 2D, inclusive, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and approval thereof.

**SECTION 2.****EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS***Department of Highways*

6033-0815 For projects on the interstate federal aid highway system; provided, that funds may be expended for the costs of those projects including, but not limited to, the nonparticipating portions of such projects and the costs of engineering and other services essential to such projects, rendered by department of highways’ employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of such employees to the extent that they work on or in support of such projects; provided further, that notwithstanding this act or any general or special law to the contrary, the department shall not enter into any obligations for projects which are eligible to receive federal funds under this act unless state matching funds exist which have been specifically authorized and are sufficient to fully fund the corresponding state portion of the federal commitment to fund such obligations; and provided further, that the department shall only enter into

obligations for projects pursuant to this act based upon a prior or anticipated future commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies . . . . . \$200,000,000

6033-0816 For federal aid projects on the non interstate federal highway system; provided, that funds may be expended for the costs of those projects including, but not limited to, the nonparticipating portions of such projects and the costs of engineering and other services essential to such projects rendered by department of highways employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of such employees to the extent that they work on or in support of such projects; provided further, that notwithstanding this act or any general or special law to the contrary, the department shall not enter into any obligations for projects which are eligible to receive federal funds under this act unless state matching funds exist which have been specifically authorized and are sufficient to fully fund the corresponding state portion of the federal commitment to fund such obligations; and provided further, that the department shall only enter into obligations for projects under this act based upon a prior or anticipated future commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies . . . . . \$2,200,000,000

SECTION 2A.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

*Department of Highways.*

6033-0817 For the design, construction and repair of or improvements to nonfederally-aided roadway and bridge projects and for the nonparticipating portion of federally- aided projects; provided, that the costs of professional personnel directly and exclusively involved in the construction, planning, engineering and design of the projects funded herein may be charged to this item; provided further, that those costs shall not be classified as administrative costs; and provided further, that

	an amount not to exceed 2 per cent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein . . . . .	\$225,000,000
6033-0837	For the purposes of remediating environmental contamination at facilities and on lands under the care, custody and control of the department, including the costs for auditing and assessing the existence and extent of environmental contamination . . . . .	\$1,400,000

SECTION 2B.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS  
*Department of Highways.*

6033-0867	For the construction and reconstruction of town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws; provided that a city or town shall comply with the procedures established by the department of highways; provided further, that any such city or town may appropriate for such projects amounts not in excess of the amount provided to the city or town under this item, preliminary notice of which shall be provided by the department to the city or town not later than April 1 of each year; provided further, that the appropriation shall be considered as an available fund upon approval of the commissioner of revenue pursuant to section 23 of chapter 59 of the General Laws; and provided further, that the commonwealth shall reimburse a city or town under this item within 30 days after receipt by the department of a request for reimbursement from the city or town, which request shall include certification by the city or town that actual expenses have been incurred on projects eligible for reimbursement under this item, and that the work has been completed to the satisfaction of the city or town according to the specifications of the project and in compliance with applicable laws and procedures established by the department . . . . .	\$150,000,000
6033-0887	For the purpose of implementing section 32 of chapter 637 of the acts of 1983 which authorizes the commissioner of highways to establish a program to assist towns with populations of 7,000 or less undertaking projects to design, construct, reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges . . . . .	\$5,000,000



SECTION 2C.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

*Office of the Secretary*

- 6001-0801 For the purposes of chapter 161B of the General Laws, including the purchase and rehabilitation of rolling stock, and implementation of networking and intelligent transportation systems to provide for interoperability communications and the construction, reconstruction and rehabilitation of regional transit authority facilities and related appurtenances . . . . . \$8,000,000
- 6001-0802 For the purpose of implementing the mobility assistance program pursuant to section 13 of chapter 637 of the acts of 1983; provided, that any grant funds awarded under this item shall be for not more than 80 per cent of the total purchase cost of the vehicles or equipment purchased under said program; and provided further, that the secretary of transportation and public works may waive the foregoing limitation on a determination that a recipient is in critical financial need . . . . . \$3,000,000
- 6001-0804 For the purpose of implementing rail improvements pursuant to chapter 161C of the General Laws; provided, that funds may be used for transportation planning, design, permitting and engineering for heavy rail, light rail and bus projects, which projects shall include the Urban Ring, Blue Line extension to Lynn, and south coast initiatives; and provided further, that funds may be used for the acquisition of interests in land . . . \$10,000,000
- 6001-0805 For the purpose of improving and expanding marine transportation services, for the purpose of enhanced passenger water transportation capacity and intermodal access to the waterfront or for other public transportation purposes including, but not limited to, service feasibility studies, demonstration projects, the acquisition of boats for passenger marine transportation services, the planning, design, construction or acquisition of docking, dredging and other landside facilities, such as parking or shelter facilities, improved landside access to such facilities, the purchase of other equipment in connection with those operations and the disposal of same when their use has been substantially diminished, including all equipment or boats purchased for marine transportation service before the effective date of this

act; provided, that in carrying out this item, the secretary of transportation and public works may enter into contracts or agreements that are appropriate with other state and local agencies, authorities or political subdivisions of the commonwealth, including, but not limited to, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority or the executive office of housing and economic development, the executive office of energy and environmental affairs, or with other quasi-public agencies, which may enter into contracts or agreements with the secretary; and provided further, that grants funded by this item shall be subject to a 25 per cent match from eligible applicants ..... \$5,000,000

SECTION 2D.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

*Office of the Secretary*

- 6001-0812 For the Fairmount Line project, the commuter transit facility parking project, the Red Line/Blue Line connector design project and the Green Line to Medford Hillside and Union Square spur project, all as further described in 310 CMR 7.36 ..... \$700,000,000
- 6001-0813 For design and construction of the Massachusetts Bay Transportation Authority Fitchburg Line Speed Improvement project . . . \$8,000,000

SECTION 3. The first paragraph of section 32 of chapter 637 of the acts of 1983, as appearing in section 31 of chapter 205 of the acts of 1996, is hereby further amended by striking out, in line 3, the words “three thousand five hundred” and inserting in place thereof the following figure:- 7,000.

SECTION 4. The third paragraph of said section 32 of said chapter 637, as amended by section 33 of said chapter 205, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Any town with a population of 7,000 or less may by vote of an annual town meeting or at a special town meeting called for that purpose or in a municipality having a town council form of government by the town council, make application to the commissioner for financial assistance in undertaking a project described in this section

SECTION 5. Subsection (e) of section 19 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first sentence the following 11 sentences:- Performance measurements shall include, for at least the then current fiscal year and the previous 5 fiscal years, all modes of transportation. Performance measurements shall include the number of projects completed, the percentage of projects completed early or on time, the percentage of projects completed under budget or on-budget,

the number of projects in construction phase and the percentage of projects advertised early or on time. Performance measurements shall include usage information for all modes of transportation, including measures of throughput, utilization and ridership. This information shall be presented with measurements of congestion, on-time performance, where appropriate, and incidents that have caused delays or closures. Performance measurements shall include assessments of maintenance performance by asset class, mode and region, including a breakdown of highway pavement, bridge and Massachusetts Bay Transportation Authority and track, for subway, commuter and commonwealth-owned freight rail, by condition level, with an explanation of current year and future year planned maintenance expenditures and their expected result. Reporting on planned maintenance programming shall include an assessment of the categories of maintenance-related activity as described in the American Association of Highway and Transportation Officials' Maintenance Manual for Roadways and Bridges. The department of highways shall expand and enhance its project information system and shall develop additional means to establish a centralized system, available on the internet, to document performance measurements and the progress and status of all planning, design, construction and maintenance projects of the executive office of transportation and the department of highways, and all road and bridge projects of any city or town that are funded, in whole or in part, by the commonwealth. A municipality shall have access to the system at no cost, shall enter such information into the system as may be required by the department of highways and shall otherwise fully participate in the system as a condition of receiving financial assistance from the commonwealth. All information in the project information system shall be a public record unless otherwise exempted by law. A report of the project information system and performance measurements shall be published annually and made available to the public not later than December 31. The report shall also be filed annually with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation.

**SECTION 6.** Said chapter 6A is hereby further amended by inserting after section 19 the following section:-

Section 19½. (a) The executive office of transportation and public works shall utilize life-cycle cost modeling for all projects. Life-cycle costs shall mean all relevant costs of a transportation asset's lifespan including, but not limited to, planning, study, design, purchase or lease, operation, maintenance, repair, replacement and disposal. The executive office shall utilize life-cycle cost modeling during the project planning and selection process for all of its constituent agencies, as defined in subsection (b) of section 19.

(b) Life-cycle cost information shall be presented as part of the public disclosure process in all project planning documents in equal proportion to initial delivery cost estimates. Project planning shall include the identification of funding to minimize life-cycle costs throughout the life of each asset.

**SECTION 7.** Chapter 10 of the General Laws is hereby amended by inserting after section 69 the following section:-



Section 69A. (a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Transportation Deferred Maintenance Trust Fund, in this section called the fund. The fund shall consist of all monies credited or transferred to the fund from any other fund or source pursuant to law.

(b) The secretary of administration and finance shall be the trustee of the fund and shall expend monies in the fund or, as appropriate, allocate monies in the fund to other agencies, without further appropriation, to design or construct maintenance and repairs to the commonwealth's roads and bridges. The secretary shall use the funds to maintain the roads and bridges in good repair, working order and condition, in an efficient manner and at a reasonable cost.

**SECTION 8.** Chapter 81A of the General Laws is hereby amended by adding the following section:-

Section 32. Notwithstanding any general or special law to the contrary, a retiree under the age of 65 in a plan for group, general or blanket hospital, medical, dental or other health insurance, either by purchase of a policy from an insurance company, or nonprofit hospital, medical, dental or other service corporation, including a health maintenance organization, or by means of a self-insurance plan or preferred provider arrangement plan of the authority, shall contribute to the total monthly premium or rate applicable to the coverage the greater of the retiree share of the monthly premium or rate then being paid by an authority retiree or the share of the monthly premium or rate established as a percentage for commonwealth retirees.

**SECTION 9.** Section 35 of chapter 161A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, a retiree under the age of 65, in a plan for group, general or blanket hospital, medical, dental or other health insurance, either by purchase of a policy from an insurance company, or nonprofit hospital, medical, dental or other service corporation, including a health maintenance organization, or by means of a self-insurance plan or preferred provider arrangement plan of the authority, shall contribute to the total monthly premium or rate applicable to that coverage an amount which shall be not less than the current retiree share of the monthly premium or rate established as a percentage for retirees from the service of the commonwealth.

**SECTION 10.** Notwithstanding any general or special law or rule or regulation to the contrary, the secretary of transportation and public works, in consultation with the secretary of public safety may promulgate regulations and recommend guidelines for the use of police details at public works sites. The regulations and guidelines shall consider categorizing public works projects, including roadways, bridges, intersections, railroads and any other similar project components, into tiers and recommend which tiers shall require the utilization of police details during work hours. The regulations shall also take into account traffic patterns, roadway design, criminal and civil offenses committed in the area and proximity to schools, playgrounds and other youth activity locations. The secretaries may

also make recommendations on the use of alternative personnel is appropriate for various tiers of public works projects. In promulgating the rules and regulations hereunder, the secretary shall examine the actual costs savings from the utilization of alternative personnel.

Notwithstanding any provision of this section to the contrary, the regulations and guidelines promulgated hereunder shall ensure that the awarding authority of the public works contract has the authority to determine the appropriate traffic control measures; provided, however, that when a municipality is the awarding authority, the traffic control measures shall be consistent with the ordinances or by laws of the municipality wherein the public works project is being undertaken and the measures shall not affect any applicable provisions of a collective bargaining agreement under chapter 150E of the General Laws.

The regulations and guidelines shall require the inclusion of a “construction zone safety plan” in each public works contract which shall require the use of personnel to ensure the safety of workers on construction sites. The plan shall include the number of construction zone safety personnel required to be on site daily and the procedures to be followed in the case the designated personnel who fail to arrive at the work site as agreed.

These regulations shall be promulgated and forwarded to the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation within 90 days after the effective date of this act.

**SECTION 11.** Notwithstanding any general or special law or rule or regulation to the contrary, the secretary of transportation and public works shall submit to the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation a report detailing the amount paid for traffic details for each public transportation construction project which was started and completed during the past 5 years and which was paid in whole or in part with state funds. The report shall distinguish, for each year, the traffic details performed by municipal police versus traffic details performed by state police. It shall also identify the percentage of the total cost of the project that the traffic detail work represented. The report shall be submitted not later than December 31, 2008.

**SECTION 12.** The secretary of transportation and public works and the commissioner of highways shall develop a reporting system wherein the executive office and the department shall track periodic and substantial completion estimates submitted pursuant to section 39G of chapter 30 of the General Laws. The reporting system shall include the date the work included on the estimate was performed, the date the resident engineer provided the estimate to the contractor for his signature, the date the contractor submitted the signed estimate, the date the estimate was signed by the department and the date payment was sent to the contractor. The executive office and the department shall submit the reports pursuant to this section to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation on a quarterly basis and shall submit a fiscal year end report not later than November 1 of each year.



**SECTION 13.** The executive office of transportation and public works and the department of highways shall advertise, award and issue notices to proceed within 120 days from the original date of advertisement for projects to be funded, in whole or in part, in federal fiscal years 2008 and 2009 from funds authorized in this act. The executive office and the department shall submit quarterly reports detailing the date the projects were originally advertised, the date the bid was opened for each project, the date each contract was awarded and the date the notice to proceed was issued for each project. The reports shall be submitted to clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation.

**SECTION 14.** Notwithstanding any general or special law to the contrary, the executive office of transportation and public works and the department of highways shall conduct an investigation and study to identify the best practices for the procurement, design, construction and oversight of transportation-related construction projects. In identifying the best practices, the department shall review the protocols and standards, with respect to each stage of a project, of states or regulatory agencies or independent authorities which have a demonstrated and documented record of delivering transportation projects on time and on budget, or better, on a regular basis. In addition, the department shall compare practices from those states or regulatory agencies or independent authorities to the formal practices of the department, as documented in the Design Guidebook, as well as any informal practices followed by the department. The department shall evaluate those best practices and make recommendations as to their application to, and potential for use on, transportation-related construction projects. The department shall submit a report, together with any recommendations, with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation not later than December 31, 2008.

**SECTION 15.** The department of highways shall undertake not less than 5 design build projects, each of which shall be completed not later than June 30, 2011. The projects shall be procured pursuant to sections 14 to 21, inclusive, of chapter 149A of the General Laws. At least 1 of the projects shall be a roadway reconstruction project with a value of not less than \$10,000,000 and at least 1 of the projects shall be a bridge reconstruction project with a value of not less than \$10,000,000. Of those projects, significant economic development impact shall be a project selection criterion. Not more than 2 projects shall be located in the same department of highways district.

The department shall prepare a report summarizing each project, including the timeline from advertisement through contract award and from the start of actual design and construction by the design build team to project completion; the time saved, if any, by employing the design build procurement method; the cost savings, if any, as a result of employing the design build procurement method; and whether, in the opinion of the department, design build was an effective procurement method for each project. The report



shall be submitted to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation not later than August 31, 2011.

**SECTION 16.** The department of highways shall undertake at least 10 projects which shall be procured pursuant to public bidding laws including, but not limited to, section 39M of chapter 30, sections 44A to 44J, inclusive, of chapter 149 and sections 14 to 21, inclusive, of chapter 149A of the General Laws which shall be advertised for construction, awarded and completed within 1 year after the original bid date of each individual project. During the project selection process, the department of highways shall consider significant economic development impact as a project criterion and shall not select more than 3 projects in the same department of highways district. In completing such projects, the department may utilize performance-based design, extended work hours, bonus payments and penalties for performance and other measures aimed at accelerating project delivery. The projects shall be completed not later than June 30, 2009. The department shall submit a report to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation detailing each project, including the advertisement date, the award date, the date construction began and the date work was completed, as well as the original office estimate for the project, the contract award amount and the final cost for the project. The report shall be submitted not later than July 31, 2009.

**SECTION 17.** The secretary of administration and finance shall submit a report on the progress and all expenditures related to the projects specified in this act and any other projects funded through the authorizations in this act to the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation. The report shall include, but not be limited to: the total amount appropriated for each project, the total estimated cost of each project, the amount expended for the planning and design of each project up to the time the report is filed, the amount expended on construction of each project up to the time the report is filed, the total amount currently expended on each project, the estimated lifetime maintenance schedule and cost of each project, the original estimated completion date of each project, the current anticipated completion date of each project and, if the project has been de-authorized, the reason for and date of de-authorization. The report shall be submitted on June 30 and December 31 of each year for a period of 6 years from the effective date of this act.

**SECTION 18.** The executive director of the Massachusetts Turnpike Authority shall submit a report to the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation not later than January 31, 2009 on the feasibility of automating fare collection on the turnpike and the metropolitan highway system. The report shall include estimates on cost savings for converting 90 per cent of the manually-operated toll lanes

to automated fare-collection lanes, the estimated initial cost to implement these conversions, the estimated savings per year once these conversions are implemented and other recommendations for modernizing technology at the authority to increase efficiency. The report shall include a complete inventory of all authority assets including, but not limited to: information technology assets, vehicle assets, building and infrastructure assets and land assets, as well as the total current value of those assets; the current physical state of those assets and the maintenance and replacement schedules for those assets.

**SECTION 19.** There shall be a study commission to study the feasibility of establishing a uniform contractor prequalification process and organization for horizontal, public construction work. The commission shall be chaired by the secretary of transportation and public works or his designee, and shall consist of the following persons or their designees: the commissioner of highways; the commissioner of conservation and recreation; the general manager of the Massachusetts Bay Transportation Authority; the chief executive officer of the Massachusetts Port Authority; the executive director of the Massachusetts Turnpike Authority; 1 member to be appointed by the governor who shall be a representative of the insurance and bonding community; 2 members to be appointed by the president of the senate, 1 of whom shall be a representative of the construction industry; 2 members to be appointed by the speaker of the house, 1 of whom shall be a representative of the construction industry; 1 member to be appointed by the minority leader of the senate; and 1 member to be appointed by the minority leader of the house of representatives. The members of the commission shall be appointed not later than June 30, 2008.

The commission shall examine the current contractor prequalification, suspension and debarment requirements, standards and procedures, if any, of each represented awarding authority, including identifying common information required by each authority; unique information required by each authority; classes of work; formulas for determining single and aggregate bonding limits; and such other information as the members of the commission deem appropriate in complying with this section. The commission shall also examine the feasibility and cost of creating an electronic prequalification filing system.

The commission shall examine the establishment of a centralized office for prequalification, suspension and debarment standards on any horizontal construction work funded in whole or in part with local, state or federal funds and shall recommend uniform regulations for the prequalification of contractors and proposed statutory changes necessary to adopt and implement those regulations. The commission shall identify any additional information to be required by a specific authority necessary to meet unique needs of that authority; provided, however, that every effort shall be made to limit the submission of duplicative information. The commission shall also develop a formula for establishing single project and aggregate limits, which shall include an inflationary factor for adjusting those limits. The commission shall also recommend guidelines for a performance measurement system for executive office to determine the efficiency and effectiveness of the prequalification process.

The commission shall submit its finding and recommendations, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the clerk of the house of representatives, the clerk of the senate and house committee on ways and means and the house and senate chairs of the joint committee on transportation not later than December 31, 2008.

**SECTION 20.** The secretary of administration and finance, in consultation with the state treasurer and the secretary of transportation and public works, shall conduct an investigation study and make recommendations for the financing of repairs for structurally deficient bridges owned by the commonwealth or a quasi-public agency of the commonwealth. In conducting its investigation and study, the secretary shall make findings relative to the current number of structurally deficient bridges in the commonwealth and the number of bridges anticipated to become structurally deficient within the next 5, 10 and 20 years, respectively. In making those recommendations, the secretary shall consider the impact of any proposals on the commonwealth's debt obligation, its annual appropriations for debt service and its bond rating. The secretary shall also consider the feasibility of funding mechanisms for the Transportation Deferred Maintenance Trust Fund established in section 69A of chapter 10 of the General Laws. The secretary shall report a final report and recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on bonding, capital expenditures and state assets and the house and senate chairs of the joint committee on transportation not later than October 1, 2008.

**SECTION 21.** Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transit Authority shall conduct a fiscal impact analysis of the authority's contribution to current retirement benefits compared to a retirement plan that would require 25 years of Massachusetts Bay Transportation Authority service and an age of not less than 55 years. The analysis shall also compare the fiscal and financial impact of restructuring the authority's retirement plan to a plan that utilizes the same provisions and requirements as the commonwealth's pension system in chapter 32 of the General Laws. The analysis shall also include a study and recommendations relative to phase-in provisions for these studies. The report shall be submitted to the house and senate committee on ways and means not later than 60 days after the effective date of this act.

**SECTION 22.** Notwithstanding the last paragraph of section 35 of chapter 161A of the General Laws, inserted by section 9, the terms established by a binding arbitration proceeding between the authority and an employee bargaining unit which is pending on the effective date of said section 9 shall remain in full force and effect for so long as those terms remain binding.

**SECTION 23.** Not later than 1 year after the effective date of this act, the department of highways shall expand and enhance its project information system as required



pursuant to subsection (e) of section 19 of chapter 6A of the General Laws and shall develop additional means to develop a centralized system, available on the internet, to document performance measurements and the progress and status of all planning, design, construction and maintenance projects. Funds authorized in this act may be used to fund the project information system. The first report required to be filed and made available to the public pursuant to said subsection (e) of said section 19 of said chapter 6A shall be submitted not later than December 31, 2008.

**SECTION 24.** 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, \$508,000,000 which shall be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of said chapter 29. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.

**SECTION 25.** To meet the expenditures necessary in carrying out section 2A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$226,400,000 which shall be in addition to those bonds previously authorized for

projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 20 of said chapter 29. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.

**SECTION 26.** To meet the expenditures necessary in carrying out section 2B the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$155,000,000 which shall be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that



any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 2O of said chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.

**SECTION 27.** To meet the expenditures necessary in carrying out section 2C, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$26,000,000 which shall be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 2O of said



chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.

**SECTION 28.** To meet the expenditures necessary in carrying out section 2D, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$708,000,000; provided, however, that any federal grants received by the commonwealth or the Massachusetts Bay Transportation Authority for the Green Line to Medford Hillside and Union Square spur project shall be applied to reduce the state authorization by that amount. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 20 of said chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with

said section 2O of said chapter 29.

**SECTION 29.** In carrying out sections 2 to 2D, inclusive, all agencies within the executive office of transportation and public works may enter into such contracts or agreements as may be appropriate with other state, local or regional public agencies or authorities. The agreements may relate to such matters as an agency shall determine including, without limitation, the design, layout, construction, reconstruction or management of construction of all or a portion of such projects. In relation to any such agreements between an agency within the executive office and other state agencies or authorities, an agency may advance monies to such agencies or authorities, without prior expenditure by the agencies or authorities, and the agencies and authorities may accept monies necessary to carry out such agreements; provided, however, that said agency shall certify to the comptroller the amounts so advanced; provided further, that such agreements shall contain provisions satisfactory to the agency for the accounting of such monies as expended by any other agency or authority; provided, further, that all monies not expended under any such agreement shall be credited to the account of the agency from which they were advanced. Agencies within the executive office shall report to the house and senate committees on ways and means any transfers completed pursuant to this section.

**SECTION 30.** (a) The department of highways shall expend the sums authorized in sections 2 to 2B, inclusive, for the following purposes: projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on and off-street bicycle projects, sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed pursuant to section 34 of chapter 90 of the General Laws, highway or mass transportation studies including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section 2 of chapter 85 of the General Laws, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, notwithstanding any general or special law to the contrary, projects to alleviate contamination of public and private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for highway safety and for the relocation of persons or businesses or for the replacement of dwellings or structures including, but not limited to, providing last resort housing under federal law and for such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et seq., and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within 1 month after such removal. In planning projects funded by sections 2 to 2B, inclusive, consideration shall be made, to the extent feasible, to accommodate and incorpor-



ate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing herein shall be construed to give rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects provided herein.

(b) Funds authorized in sections 2 to 2B, inclusive, shall, except as otherwise specifically provided in this act, be subject to the first paragraph of section 6 and sections 7 and 9 of chapter 718 of the acts of 1956, where applicable, and, notwithstanding any general or special law to the contrary, may be used for the purposes stated in this act in conjunction with funds of cities, towns and political subdivisions of the commonwealth.

(c) Notwithstanding sections 40A and 40B of chapter 7 of the General Laws, the department shall have jurisdiction over the selection of designers performing design services in connection with the ventilation of buildings, utility facilities and toll booths to be constructed as part of the Central Artery/ Tunnel Project and shall construct, control, supervise or contract such structures; provided, however, that no such construction or contractual agreement for construction shall begin before the review and approval of the inspector general. The inspector general shall file with the house and senate committees on ways and means and the joint committee on transportation all notices of approval for projects undertaken pursuant to this subsection.

(d) In addition to the foregoing, the department may: expend funds made available by this act to acquire from any person, land or rights in land by lease, purchase or eminent domain under chapter 79 of the General Laws, or otherwise, for parking facilities adjacent to a public way to be operated by the department or under contract with an individual; expend funds made available by this act for the acquisition of van-type vehicles used for multi-passenger, commuter-driven carpools and high occupancy vehicles including, but not limited to, water shuttles and water taxis; and in accordance with all applicable state and federal laws and regulations, exercise all powers and do all things necessary and convenient to carry out the purposes of this act.

(e) In carrying out this section, the department may enter into contracts or agreements with cities to mitigate the effects of projects undertaken pursuant to this act and to undertake additional transportation measures within the city and may enter into such contracts or agreements with other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions as may be necessary to implement such city agreements. Cities and other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions may enter into such contracts or agreements with the department. In relation to such agreements, the department may advance to such agencies, organizations or authorities, without prior expenditure by such agencies, organizations or authorities, monies necessary to carry out such agreements; provided, however, that the department shall certify to the comptroller the amount so advanced; provided, further, that all monies not expended under such agreement shall be credited to the account of the department from which they were advanced. The department shall report to the house and



senate committees on ways and means on any transfers completed pursuant to this subsection.

**SECTION 31.** Notwithstanding any general or special law to the contrary, the executive office of transportation and public works and the department of highways shall take all necessary actions to secure federal highway or mass transportation assistance including, but not limited to, actions authorized pursuant to 23 U.S.C. and section 145 of the Surface Transportation and Uniform Relocation Assistance Act of 1982, PL 97-424, the Surface Transportation and Uniform Relocation Act of 1987, PL 100-17, the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, the Transportation Equity Act for the 21st Century, PL 105-178, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, PL 109-59, and any successor acts or reauthorizations of those acts, and actions such as filing applications for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by a department, agency or other instrumentality of the commonwealth, other than the department of highways, such other department, agency or instrumentality shall take such action. In furtherance of the foregoing purposes, the department of highways, as appropriate, shall apply for and may accept any federal funds available for projects authorized in section 2 and the federal funds, when received, shall be credited to the Federal Highway Construction Program Fund.

**SECTION 32.** Notwithstanding any general or special law to the contrary, section 61 and sections 62A to 62H, inclusive, of chapter 30 of the General Laws, chapter 91 of the General Laws and section 40 of chapter 131 of the General Laws shall not apply to bridge projects of the department of highways and the Massachusetts Bay Transportation Authority for the repair, reconstruction, replacement or demolition of existing state highway bridges and other bridges, including the immediate roadway approaches necessary to connect the bridges to the existing adjacent highway system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced, but said section 61 and said sections 62A to 62H, inclusive of said chapter 30, said chapter 91 and said section 40 of said chapter 131 shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles river for the Central Artery/Tunnel Project. In the case of a state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of a railroad company, railway company or its assigns operating on the track of a necessary clearance between the track and the state highway bridge, but the department, its agents or contractors may enter upon any right-of-way, land or premises of a railroad company or railway company or its assigns for purposes that the department may consider necessary or convenient to carry out this section. If a flagman is needed to carry out this section, the railroad company or its assigns shall provide the flagman. For the purposes of this section, the word "bridge" shall include

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any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility or other area.

**SECTION 33.** Sections 8 and 9 shall apply to persons who retire after December 31, 2008.

Approved April 17, 2008.

**Chapter 87. AN ACT REGULATING CERTAIN INSURANCE BENEFITS FOR ELECTED OFFICIALS OF THE TOWN OF EASTON.**

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

**SECTION 1.** Notwithstanding chapter 32B of the General Laws or any other general or special law to the contrary, an elected official of the town of Easton who receives a stipend shall not be eligible for participation in the town's contributory health and life insurance plans unless the official pays to the town 100 per cent of the cost of participation in the plans, plus any administrative costs that may be assessed by the board of selectmen.

**SECTION 2.** Notwithstanding section 1, officials who were elected before May 1, 2007 and currently participate in the plans shall be eligible to continue to participate until the end of their current terms at the same rate of contribution as non-union employees of the town.

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

Approved April 17, 2008.

**Chapter 88. AN ACT RELATIVE TO A CERTAIN RESERVE FUND IN THE TOWN OF OAK BLUFFS.**

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

**SECTION 1.** Chapter 234 of the acts of 1993 is hereby amended by striking out section 1 and 2, as amended by chapter 72 of the acts of 1999, and inserting in place thereof the following 2 sections:-

Section 1. Notwithstanding any general or special law to the contrary, the town of Oak Bluffs may establish in the town treasury a reserve fund which shall be kept separate and apart from all other monies by the town treasurer and into which all monies received from the provision of ambulance services shall be deposited. The town treasurer shall expend those funds in accordance with section 2.

Section 2. The reserve fund shall be used for the purchase and equipping of public

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safety vehicles with a priority for ambulance and police and fire department vehicles and for the payment of emergency medical technicians and paramedics and for the compensation for ambulance transfers outside of the county of Dukes County. Purchases of public safety vehicles shall be authorized by a majority vote at an annual or special town meeting. The funds may be used for the payment of compensation to emergency medical technicians and paramedics or for equipment purchases if authorized by the board of selectmen or its designee.

**SECTION 2.** Any actions and proceedings taken by the town of Oak Bluffs in connection with the reserve fund established pursuant to chapter 234 of the acts of 1993 prior to the effective date of this act are hereby ratified, validated and confirmed to the same extent as if such actions and proceedings had been in full compliance with law.

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

Approved April 17, 2008.

**Chapter 89. AN ACT FURTHER REGULATING HEALTH AND OTHER INSURANCE FOR EMPLOYEES OF THE TOWN OF WEST TISBURY.**

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

**SECTION 1.** Chapter 32B of the General Laws shall apply in the town of West Tisbury as though the town voted to accept section 10 of said chapter 32B as of May 21, 1974, for the purpose of authorizing the town to provide a plan of group health and other insurance to employees of the town, and all actions taken pursuant thereto are hereby ratified, validated and confirmed.

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

Approved April 17, 2008.

**Chapter 90. AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PARCELS OF LAND IN THE CITY OF BOSTON.**

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

**SECTION 1.** Notwithstanding sections 40E and 40J 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, in consultation with the commissioner of conservation and recreation, may lease, for a term not to exceed 30 years, certain parcels of state-owned land in the city of Boston to Expressway Motors, LLC. The lease shall be subject to such addi-



tional terms and conditions as the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may prescribe, to ensure that environmental impacts associated with the use of the parcels are addressed and that the lease results in a net benefit to the park system. The parcels are located on William T. Morrissey boulevard and shown as 11,219 square feet more or less and 1,925 square feet more or less on a plan of land dated July 25, 2005, and drawn by Allen & Major Associates, Inc. The lease shall contain a restriction that the parcels shall only be used for, parking purposes and that the department of conservation and recreation may terminate the lease as to all or a portion of the parcels in the event the department determines that all or a portion of the land is needed for any public construction project associated with the improvement of Morrissey boulevard. The exact boundaries of the parcels to be leased shall be determined by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, after completion of a survey. The consideration for the lease shall be the net present value of the full and fair market value of the lease of the parcels as determined by the commissioner of capital asset management and maintenance pursuant to 1 independent professional appraisal to be used in accordance with section 3.

**SECTION 2.** Notwithstanding any general or special law to the contrary, the inspector general shall review and approve any appraisals required pursuant to section 1. An appraisal shall be prepared in accordance with usual and customary professional appraisal practices by a qualified appraiser commissioned by the commissioner of capital asset management and maintenance. For the purposes of an appraisal, the full and fair market value of the area to be leased shall be calculated with regard to its full development potential as assembled with other lands owned or otherwise controlled by the Expressway Motors, LLC. The inspector general shall prepare a report of his review of the methodology utilized for the appraisal and shall file the report with the commissioner of capital asset management and maintenance, the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets. The commissioner of capital asset management and maintenance shall, 30 days before the execution of a lease authorized by this act, or a subsequent amendment thereto, submit the proposed conveyance 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 the proposed lease or amendment. The commissioner shall submit the proposed lease or amendment, and the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets at least 15 days before the execution of the lease or amendment.

**SECTION 3.** To ensure a no-net-loss of lands protected for conservation purposes, the lease of the parcel shall only occur if the lessee has mitigated the impact and conveyed, or caused to be conveyed, to the commonwealth land or an interest in land to be held by the department of conservation and recreation for said conservation purposes. The land or interest in land shall be of greater value than as determined in accordance with section 2 and

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shall be acceptable to the department, in its discretion.

**SECTION 4.** Notwithstanding any general or special law to the contrary, Expressway Motors, LLC, shall be responsible for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the lease authorized in this act as those costs may be determined by the commissioner of the division of capital asset management and maintenance and related to the conveyance required under section 3 as such costs may be determined by the commissioner of conservation and recreation.

Approved April 17, 2008.

**Chapter 91. AN ACT DESIGNATING A PORTION OF THE BREMEN STREET PARK IN THE EAST BOSTON SECTION OF THE CITY OF BOSTON AS THE REPRESENTATIVE GEORGE DILORENZO PLAYGROUND.**

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

The 18-acre Bremen street park in the East Boston section of the city of Boston, bordered on 1 side by state highway route 1A and interstate highway route 90 and by Bremen street on the other side, shall have that portion of the park at the playground located at the Bremen street and Brooks street entrance designated and known as the Representative George DiLorenzo Playground, in memory of George DiLorenzo who honorably served as a state representative from East Boston from 1965 to 1970 and from 1973 to 1974. The Massachusetts Port Authority shall erect and maintain a suitable marker at that location bearing this designation in compliance with the standards of the authority.

Approved April 17, 2008.

**Chapter 92. AN ACT AUTHORIZING THE TOWN OF WAKEFIELD TO ISSUE PENSION OBLIGATION BONDS OR NOTES.**

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

**SECTION 1.** The town of Wakefield may issue bonds or notes from time to time for the purpose of funding all or a portion of the unfunded pension liability of the retirement system of the town. Bonds or notes issued under this act shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws, shall be issued for terms not to exceed 30 years from the date of issuance and, except as otherwise provided in this act, shall be subject to said chapter 44. The proceeds of any issuance under this act shall

be transferred by the town to the retirement system. No bonds or notes shall be issued without a  $\frac{2}{3}$  vote of the town meeting of the town of Wakefield. Upon the authorization of the issuance of pension obligation bonds by the town meeting, the town shall submit the vote and a plan demonstrating how the town will finance and allocate the debt service associated with the bonds or notes to the executive office for administration and finance, and no bonds or notes authorized to be issued by this act shall be issued until the secretary for administration and finance has approved the plan and the issuance of the bonds or notes. In granting the approval, the secretary may require the establishment of a reserve to be created from a portion, not to exceed 60 per cent in any year, of the amount of the annual savings used to calculate the present value savings. Subject to the regulations established by the secretary, the reserve shall be held and controlled by the town and shall be separate from any other reserve or fund of the town allowed or required by statute. The secretary shall establish a method to calculate both the required amount of annual contribution to the reserve and the minimum value to be maintained in the reserve and shall prescribe conditions for expenditure from the reserve, including its use if necessary to prevent or limit any future unfunded actuarial pension liability, and the conditions under which all or a portion of the funds in the reserve may be available for unrestricted purposes in which case the funds or portions thereof shall be transferred to the town treasury. Any funds in the reserve shall be trust funds within the meaning of section 54 of chapter 44 of the General Laws and, except as otherwise provided in this act, shall be subject to said section 54 of said chapter 44.

**SECTION 2.** The aggregate principal amount of the bonds or notes issued under this act shall not be greater than the amount sufficient to extinguish the unfunded pension liability of the retirement system of the town of Wakefield as determined in accordance with this section. The retirement board of the town shall first determine the amount sufficient to extinguish the unfunded pension liability of the retirement system of the town in accordance with the report of a nationally recognized independent consulting firm, which may be the consulting actuary generally retained by the retirement board, and with the approval of the public employee retirement administration commission. The report shall also set forth the present value savings to the town reasonably expected to be achieved as a result of the issuance of such bonds or notes.

**SECTION 3.** The maturities of bonds or notes issued under this act shall be scheduled such that the annual combined payments of principal and interest for each issue shall be as nearly equal as practicable in the opinion of the selectmen, or in a manner providing for a more rapid amortization of principal, or in any other manner consistent with the town's approved funding schedule, as the secretary for administration and finance shall approve.

**SECTION 4.** Every governmental unit the employees of which are members of the retirement system of the town of Wakefield shall be responsible, in accordance with this section, for paying such proportion of the annual debt service expense paid by the town for bonds issued under authority of this act as is equal to the proportion of the total unfunded



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pension liability of the retirement system allocated to such member under section 2. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each governmental unit in the retirement system other than the expense as determined in this act, and shall decrease the amount to be paid by the town by an equal amount. The town shall have the same legal rights and authority as the retirement board of the town to collect any amount so assessed by the retirement board to any such governmental unit.

**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 of Wakefield for bonds or notes issued under this act applicable to school department personnel who are members of the town's retirement system shall be included in the computation of net school spending for the purposes of said chapter 70 or any other law.

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

Approved April 24, 2008.

## Chapter 93. AN ACT AUTHORIZING THE APPOINTMENT OF SPECIAL POLICE OFFICERS IN THE TOWN OF NATICK.

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

**SECTION 1.** The board of selectmen of the town of Natick may appoint retired Natick police officers as special police officers for the purpose of performing police details or any police duties arising therefrom or during the course of police detail work. A special police officer shall have been a regular Natick police officer and retired based on superannuation. A special police officer appointed under this act shall be subject to the maximum age restriction as that which applies to a regular police officer under chapter 32 of the General Laws. A special police officer appointed under this act shall pass a medical examination by a physician or other certified professional chosen by the town to determine that he is capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officer, prior to performing police details.

**SECTION 2.** A special police officer appointed under this act shall not be subject to chapter 31 or section 99A of chapter 41 of the General Laws.

**SECTION 3.** A special police officer appointed under this act, when performing duties authorized by section 1, shall have the same power to make arrests and perform other police functions as a regular police officer of the town of Natick.

**SECTION 4.** A special police officer appointed under this act shall be appointed for an indefinite term, subject to removal by the board of selectmen at any time upon written notice of the board of selectmen.

**SECTION 5.** A special police officer appointed under this act shall be subject to

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suspension at any time at the sole discretion of the chief of police.

**SECTION 6.** A special police officer appointed under this act shall be subject to the rules and regulations, policies and procedures and requirements of the police department and the chief of police, including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continued capability to perform the duties of a special police officer and requirements regarding uniform and equipment. A special police officer appointed under this act shall not be subject to section 96B of chapter 41 of the General Laws.

**SECTION 7.** A special police officer appointed under this act shall be sworn before the town clerk, who shall keep a record of all such appointment.

**SECTION 8.** A special police officer appointed under this act shall be subject to section 100 and section 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 to an incapacitated special police officer 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 an officer designated as a special police officer for less than 52 weeks prior to the incapacity. Payment under said section 111F of said chapter 41 shall not exceed, in a calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. In the event that the age limitation applicable to a regular police officer serving the town is increased from the current 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided in this act to a special police officer, shall terminate at such higher age limit, but in no event shall the benefits extend beyond the age of 70 for a special police officer. A special police officer appointed under this act shall not be subject to section 85H of said chapter 32 or be eligible for benefits under said section 85H of said chapter 32.

**SECTION 9.** An appointment as a special police officer under this act shall not entitle an individual appointed as such to assignment to any detail.

**SECTION 10.** A retired Natick police officer serving as a special police officer under this act shall be subject to the limitations on hours worked and on payments to retired town employees under paragraph (b) of section 91 of chapter 32 of the General Laws.

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

Approved April 24, 2008.

## Chapter 94. AN ACT PROVIDING FOR THE ESTABLISHMENT OF A FIRE DEPARTMENT IN THE TOWN OF GEORGETOWN.

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

**SECTION 1.** It is hereby recognized that the Erie Fire Association No. 4, Inc. and

the Central Fire Company of Georgetown, Mass., Inc. have played a unique role in the history of the town of Georgetown and that the Erie Fire Association No. 4, Inc. is the oldest privately-owned volunteer fire company in the United States. The town seeks to preserve the special relationship it has shared with the fire companies in the provision of fire protection services to the town, and further, to preserve the historical significance accorded to the Erie Fire Association No. 4. While the town seeks to centralize fire protection services under the direction of a chief of the fire department, it is further recognized that to best leverage the limited financial and physical resources of the town, the continued relationship of the town with the fire companies will provide important supplementary resources and support to maintain the high level of fire protection services the people of the town of Georgetown expect.

**SECTION 2.** Notwithstanding any general or special law to the contrary, there shall be a fire department in the town of Georgetown under the control of a chief of the fire department, in this act called the fire chief. The fire chief shall be appointed by the board of selectmen of the town and shall receive such salary as the board of selectmen may, from time to time, determine, not to exceed, in the aggregate, the amount annually appropriated therefore. The fire chief may be removed for cause by the board of selectmen at any time after a hearing.

**SECTION 3.** The board of selectmen of the town of Georgetown may establish an employment contract with the chief of the fire department for a period of up to 3 years to provide for the salary, fringe benefits and other conditions of employment including, but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of the duties of the fire chief, liability insurance, conditions of discipline, termination, dismissal, performance standards and leave. The contract shall be subject to annual appropriation. The contract shall prevail over any conflicting provision of any local personnel by-law, ordinance, rule or regulation. In addition to the benefits provided to municipal employees under chapters 32 and 32B of the General Laws, the contract may provide for supplemental retirement and insurance benefits. Nothing in this act shall grant tenure to the fire chief or abridge section 67 of chapter 44 of the General Laws.

**SECTION 4.** (a) Except as otherwise provided in subsection (b), the fire chief shall have the duties and responsibilities described in this subsection. The fire chief shall have charge of extinguishing fires in the town of Georgetown and the protection of life and property in case of fire. The fire chief shall purchase, subject to the approval of the board of selectmen, and keep in repair all property and apparatus used for and by the fire department. The fire chief shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns, except as herein provided, and shall appoint 1 or more deputy fire chiefs and such officers and firefighters as the fire chief considers necessary or appropriate and may remove the same for cause at any time after a hearing. Firefighters so appointed by the fire chief shall serve a probationary period of 1 year, during which time they shall perform the duties of a firefighter and may be removed



at any time after a hearing. All officers and firefighters appointed by the fire chief shall be employees of the town, subject to the authority of the fire chief and any rules and regulations adopted by the fire chief for operation of the department and all applicable General Laws. The fire chief shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the board of selectmen, from time to time as the board of selectmen may require, and shall annually report the condition of the fire department to the town along with the fire chiefs' recommendations thereto. The fire chief shall determine the compensation of the permanent full-time, permanent part-time and call members of the fire department, subject to the approval of the board of selectmen. The fire chief shall, in the expenditure of money, be subject to such further limitations as the town may, from time to time, prescribe.

(b) The board of selectmen, in consultation with the fire chief, may, at its sole discretion, enter into contracts with the Erie Fire Association No. 4, Inc. and the Central Fire Company of Georgetown, Mass., Inc., for fire protection apparel, equipment and facilities. Execution of such contracts shall not require the approval of the town meeting. Sections 38A½ through 38O of chapter 7 of the General Laws, and chapters 30, 30B, and 149 of the General Laws shall not apply to the contracts. Contracts authorized by this section may address, but are not limited to addressing, the following subjects: departmental use of equipment owned by either fire company; proper maintenance of firefighting apparel, equipment and facilities owned by either fire company; indemnification of the town for use of such apparel, facilities and equipment; minimum levels of insurance, including naming the town of Georgetown as an additional insured; and payment of compensation to either fire company for the use of firefighting apparel, equipment or facilities.

(c) A contract between the town of Georgetown and the Erie Fire Association No. 4, Inc. or the Central Fire Company of Georgetown, Mass., Inc. shall not exceed a period of 10 years; provided, however, that the board of selectmen may extend such contract, or negotiate any new contract, for up to 2 additional periods of up to 10 years each. The financial obligation of the town of Georgetown under any such contract shall be subject to annual appropriation.

(d) Upon a majority vote of the entire board of selectmen, and with the approval of town meeting, the town may permanently sever its relationship with either firefighting company and terminate any contracts entered into pursuant to this act upon 60-days written notice of termination from the board of selectmen, at which time subsection (b) shall no longer be in effect with respect to the firefighting company to which notice was provided in accordance with this section. Failure to enter into a contract, negotiate a new contract or extend an existing contract for the purposes authorized herein shall not be considered to constitute permanent severance of the relationship of the town with the fire companies as set forth in the preceding clause.

**SECTION 5.** Pending the initial selection and appointment of an interim or permanent fire chief by the board of selectmen under this act, the board of fire engineers shall

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continue to serve in its current capacity, subject to all laws applicable to such boards, including, but not limited to chapter 48 of the General Laws. Upon the appointment by the board of selectmen of an interim or permanent fire chief under this act, the term of any incumbent member of the board of fire engineers shall be terminated and the board of fire engineers shall thereupon be dissolved. Any individual appointed as a firefighter by the board of fire engineers as of the effective date of this act shall continue in that position until the expiration of the term of appointment of such firefighter, notwithstanding the dissolution of the board of fire engineers. Appointments of firefighters shall thereafter be made in accordance with subsection (a) of section 4.

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

Approved April 24, 2008.

## **Chapter 95. AN ACT ESTABLISHING A SICK LEAVE BANK FOR KATHRYN MCGAFFEY, AN EMPLOYEE OF THE DEPARTMENT OF SOCIAL SERVICES.**

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

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

Notwithstanding any general or special law or rule or regulation to the contrary, the department of social services shall establish a sick leave bank for Kathryn McGaffey, 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 Kathryn McGaffey. Whenever Kathryn McGaffey terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved April 24, 2008.

## **Chapter 96. AN ACT EXEMPTING ALL POSITIONS IN THE DEPARTMENT OF PUBLIC WORKS IN THE CITY KNOWN AS THE TOWN OF FRANKLIN FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, all positions in the department of public works in the city known as the town of Franklin shall

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not be subject to chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of any person holding a position in the department of public works on the effective date of this act.

**SECTION 3.** This act shall take effect as of July 1, 2007.

Approved April 24, 2008.

## **Chapter 97. AN ACT RELATIVE TO THE APPOINTMENT OF SPECIAL POLICE OFFICERS IN THE TOWN OF WESTFORD.**

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

**SECTION 1.** The town manager of the town of Westford may appoint, as he deems necessary, retired Westford police officers as special police officers for the purpose of performing police details or any other police duties arising therefrom or during the course of police detail work, whether or not related to the detail work; provided, however, that the officers shall have been regular Westford police officers and retired based on superannuation. The special police officers shall be subject to the same maximum age restriction as applied to regular police officers under chapter 32 of the General Laws. Prior to appointment under this act, a retired police officer shall pass a medical examination conducted by a physician or other certified professional chosen by the town to determine whether he is capable of performing the essential duties of a special police officer and the cost thereof shall be borne by the special police officer.

**SECTION 2.** Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws or to section 99A of chapter 41 of the General Laws.

**SECTION 3.** Special police officers shall, when performing the duties under section 1, have the same power to make arrests and perform other police functions as do regular police officers of the town of Westford.

**SECTION 4.** A special police officer shall be appointed for an indefinite term, subject to removal by the town manager at any time with 14 days written notice. Upon request, the town manager shall provide the reasons for removal in writing.

**SECTION 5.** Special police officers shall also be subject to the rules and regulations, policies and procedures and requirements of the town manager and the chief of police of the town of Westford, including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications 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 before the town clerk of the town of Westford 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 of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks prior to the incapacity. The payment under said section 111F of said chapter 41 shall not exceed, in a calendar year, the limitation on earning in subsection (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving a town is increased from the current 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided herein to special police officers, shall terminate at such higher age limit but shall not extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32 nor shall they be eligible for any benefits pursuant thereto.

**SECTION 8.** An appointment as a special police officer shall not entitle that person to assignment to any detail.

**SECTION 9.** Special police officers appointed pursuant to this act shall be subject to the limitation on hours worked as provided in subsection (b) of section 91 of chapter 32 of the General Laws.

**SECTION 10.** This act shall take effect upon its passage.

Approved May 1, 2008.

**Chapter 98. AN ACT PLACING A CERTAIN QUESTION ON THE BALLOT OF  
THE NOVEMBER 2008 STATE ELECTION IN THE TOWN OF  
PALMER.**

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

**SECTION 1.** In order to ascertain the will of the voters of the town of Palmer and notwithstanding any general or special law to the contrary, the state secretary shall cause to be placed on the official ballot to be used in the November 2008 state election in the town of Palmer the following question: "Shall a charter commission be elected to revise the charter of the town of Palmer?" If a majority of the votes cast in answer to the question is in the affirmative it shall be taken to be the will of the voters that the commission be elected.

**SECTION 2.** Notwithstanding any general or special law to the contrary, the state secretary shall also cause to be printed on the ballot to be used in the November 2008 state election in the town of Palmer the names and addresses of candidates for charter commission

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in the town of Palmer. Candidates for the commission shall submit their nomination papers to the registrars of voters no later than 5:00 p.m. on July 29, 2008. The registrars shall complete the certification of signatures no later than 5:00 p.m. on August 12, 2008. Candidates shall file certified nomination papers with the town clerk no later than 5:00 p.m. on August 19, 2008. Withdrawals and objections to certified nomination papers shall be filed no later than 5:00 p.m. on August 22, 2008.

The town clerk shall submit the names of candidates to the state secretary in writing no later than August 26, 2008.

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

Approved May 1, 2008.

**Chapter 99. AN ACT AUTHORIZING BILINGUAL BALLOTS IN MUNICIPAL ELECTIONS IN THE CITY OF WORCESTER.**

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

**SECTION 1.** Notwithstanding any general or special law or the city charter of the city of Worcester to the contrary, the board of election commissioners of the city of Worcester may conduct any preliminary, general or special election involving solely municipal offices or municipal ballot questions in English and Spanish.

**SECTION 2.** In exercising the authority granted by section 1, the board shall: (1) produce clear, complete and accurate Spanish translations of the content of all ballots, sample ballots, petition forms, instructions to voters, voting notices, voting location information and signage and any other material relating to such election; (2) ensure that all election materials translated into Spanish are posted or distributed to the public either on paper or electronically on a parallel basis with all election materials produced and posted or distributed to the public in English; and (3) provide oral voting assistance in English and Spanish.

**SECTION 3.** The results of any election conducted prior to the effective date of this act are hereby ratified, validated and confirmed as if this act had been in effect on the date of such election.

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

Approved May 1, 2008.

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**Chapter 100. AN ACT AUTHORIZING THE TOWN OF MILTON TO BORROW MONEY TO FUND CERTAIN PAYMENTS.**

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

**SECTION 1.** The town of Milton may borrow up to \$850,000 for payment of legally-obligated medical expenses incurred from July, 2007 through June, 2008 by certain public safety personnel resulting from injuries sustained in the line of duty. The town may issue bonds and notes for this amount, which shall be payable for a period not to exceed 20 years from the date of issuance. The town may also issue temporary notes in anticipation of this borrowing under section 17 of chapter 44 of the General Laws. Bonds and notes may be issued under this act by the town treasurer with the approval of the board of selectmen, and the proceeds may be expended without further authorization or appropriation by the town. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section 10 of said chapter 44 but, except as provided in this act, shall otherwise be subject to said chapter 44.

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

Approved May 5, 2008.

**Chapter 101. AN ACT RELATIVE TO NOTICES OF TOWN MEETINGS IN THE TOWN OF LEXINGTON.**

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

**SECTION 1.** The first paragraph of section 3 of chapter 215 of the acts of 1929 is hereby amended by striking out the last sentence.

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

Approved May 13, 2008

**Chapter 102. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DEBORAH A. JONES, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.**

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

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



Notwithstanding any general or special law or rule or regulation to the contrary, the department of mental retardation shall establish a sick leave bank for Deborah A. Jones, 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 Deborah A. Jones. Whenever Deborah A. Jones terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved May 13, 2008

**Chapter 103. AN ACT AUTHORIZING THE ESTABLISHMENT OF THE WHITIN RESERVOIR WATERSHED DISTRICT IN THE TOWN OF DOUGLAS.**

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

**SECTION 1.** There shall be established a district within the town of Douglas, which shall be known as the Whitin Reservoir Watershed District, which, upon its establishment in the manner set forth in this act, shall constitute a body politic and corporate. The district shall be generally bounded and described as follows:

**A. General Boundaries.**

**BEGINNING** at a point on the Easterly line of Wallis Street, said point marking the Southerly line of the Whitin Reservoir Causeway;

**THENCE** Southwesterly by the Easterly and Northeasterly line of Wallis Street for a distance of 3,912.05 feet to a point;

**THENCE** Northerly by land, now or formerly, of Mathew F. Erskine, Trustee for a distance of 119.7 feet to a point;

**THENCE** Northeasterly continuing by land, now or formerly, of Mathew F. Erskine, Trustee for a distance of 480.37 feet to a point;

**THENCE** Southwesterly continuing by land, now or formerly, of Mathew F. Erskine, Trustee for a distance of 476.26 feet to a point on the Northeasterly line of Wallis Street;

**THENCE** Southeasterly by the Northeasterly line of Wallis Street for a distance of 1245 feet, more or less, to a point;

**THENCE** Northerly, by land, now or formerly, of Matthew F. Erskine, Trustee for a distance of 673.47 feet to a point;

**THENCE** Northeasterly, continuing by land, now or formerly, of Matthew F. Erskine, Trustee for a distance of 156.68 feet to a point;

**THENCE** Southeasterly, continuing by land, now or formerly, of Matthew F. Erskine, Trustee for a distance of 714.86 feet to a point on the Northerly line of Wallis Street;

**THENCE** Northeasterly by the Northerly line of Wallis Street for a distance of 605.36 feet to a point;

THENCE Northwesterly by land, now or formerly, of Peter R. Brady for a distance of 491.63 feet to a point;

THENCE Northeasterly by land, now or formerly, of Edward A. Therrien for a distance of 253.25 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of Edward A. Therrien for a distance of 323.24 feet to a point;

THENCE Easterly and Northeasterly by land, now or formerly, of the J. J. Douglas Nominee Trust for a distance of 235.64 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of the J. J. Douglas Nominee Trust for a distance of 38.26 feet to a point;

THENCE Easterly by land, now or formerly, of Allan Wayne O. Day for a distance of 235.74 feet to a point;

THENCE Northeasterly continuing by land, now or formerly, of Allan Wayne O. Day for a distance of 217.99 feet to a point on the Southwesterly line of J. P. Manning Way;

THENCE Northwesterly by the Southwesterly line of J. P. Manning Way for a distance of 82 feet, more or less, to a point at the Northwesterly end of J. P. Manning Way;

THENCE Northeasterly by land, now or formerly, of George L. Plays for a distance of 127.35 feet to a point;

THENCE Northeasterly by land, now or formerly, of the Temple Family Nominee Trust for a distance of 275 feet to a point;

THENCE Northeasterly by land, now or formerly, of Robert C. Orr for a distance of 200 feet to a point;

THENCE Northeasterly by land, now or formerly, of Robert A. Deluca for a distance of 78 feet to a point;

THENCE Northeasterly by land, now or formerly, of Eric C. Virostek for a distance of 200 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of Eric C. Virostek for a distance of 283.13 feet to a point;

THENCE Southeasterly and Easterly by land, now or formerly, of Don J. Virostek for a distance of 497.23 feet to a point on the Westerly line of Northwest Main Street;

THENCE Northwesterly by the Westerly line of Northwest Main Street for a distance of 210 feet to a point;

THENCE Westerly and Northwesterly by land, now or formerly, of Don J. Virostek for a distance of 317.19 feet to a point;

THENCE Northeasterly by land, now or formerly, of Joseph Nedoroscik for a distance of 86.06 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of Joseph Nedoroscik for a distance of 94.5 feet to a point;

THENCE Northeasterly by land, now or formerly, of the MEDJD Nominee Trust for a distance of 53.42 feet to a point;

THENCE Southeasterly, Northerly and Southeasterly by land, now or formerly, of Thomas E. Evers for a distance of 448.49 feet to a point on the Westerly line of Northwest Main Street;

THENCE Northwesterly by the Westerly line of Northwest Main Street for a distance of 138 feet to a point;

THENCE Northwesterly by land, now or formerly, of Thomas E. Evers for a distance of 342 feet to a point;

THENCE Northeasterly by land, now or formerly, of Fred W. Pilch for a distance of 200 feet to a point;

THENCE Northerly by land, now or formerly, of Paul T. Hare for a distance of 220 feet to a point;

THENCE Northeasterly by land, now or formerly, of Elaine Kulesza for a distance of 220 feet to a point on the Westerly line of Northwest Main Street;

THENCE Northwesterly by the Westerly line of Northwest Main Street for a distance of 1024.15 feet to a point;

THENCE Easterly crossing Northwest Main Street for a distance of 35 feet, more or less, to a point;

THENCE Northeasterly and Easterly by land, now or formerly, of Hydro Projects, Inc. for a distance of 462 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of Hydro Projects, Inc. for a distance of 546.48 feet to a point on the Southerly line of West Street;

THENCE Westerly by the Southerly line of West Street for a distance of 425 feet, more or less, to a point;

THENCE Northwesterly crossing West Street for a distance of 35 feet, more or less, to a point;

THENCE Westerly by land, now or formerly, of Hydro Projects, Inc. for a distance of 171 feet to a point on Northwest Main Street;

THENCE Northwesterly crossing Northwest Main Street for a distance of 35 feet, more or less, to a point;

THENCE Northeasterly crossing Northwest Main Street for a distance of 35 feet, more or less, to a point on the Westerly line of Birch street;

THENCE Northeasterly by the Westerly line of Birch Street for a distance of 270.6 feet to a point;

THENCE Northwesterly by land, now or formerly, of Lorraine Picotte for a distance of 319.15 feet to a point;

THENCE Southwesterly and Southeasterly continuing by land, now or formerly, of Lorraine Picotte for a distance of 380.12 feet to a point;

THENCE Northwesterly by land, now or formerly, of Paul H. Petrillo for a distance of 99.45 feet to a point;

THENCE Northwesterly by land, now or formerly, of Paul J. Garagliano, Jr. for a distance of 99.59 feet to a point;



THENCE Northeasterly by land, now or formerly, of Vincent Ross for a distance of 12.85 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of Vincent Ross for a distance of 124.24 feet to a point;

THENCE Southwesterly continuing by land, now or formerly, of Vincent Ross for a distance of 154.73 feet to a point on the Northerly line of Northwest Main Street;

THENCE Southwesterly crossing Northwest Main Street for a distance of 40 feet, more or less, to a point;

THENCE Northwesterly and Westerly by the Southerly line of Northwest Main Street for a distance of 2,978.56 feet to a point on the Easterly line of Peters Cove Road;

THENCE Northwesterly crossing the Northerly end of Peters Cove Road for a distance of 80 feet, more or less, to a point on the Westerly line of Peters Cove Road;

THENCE Southeasterly by the Westerly line of Peters Cove Road for a distance of 186.46 feet to a point;

THENCE Southwesterly by land, now or formerly, of Mary Ellis for a distance of 100 feet to a point;

THENCE Southeasterly continuing by land, now or formerly, of Mary Ellis for a distance of 161.62 feet to a point;

THENCE Southwesterly by land, now or formerly, of Meredith G. Parrott for a distance of 100 feet to a point;

THENCE Southwesterly by land, now or formerly, of Gregory A. Rheame for a distance of 180 feet to a point;

THENCE Southwesterly by land, now or formerly, of Joseph H. Daigle for a distance of 180 feet to a point;

THENCE Northwesterly by land, now or formerly, of Dudley R. Marsh for a distance of 60 feet to a point on the Easterly line of Wallis Street;

THENCE Southwesterly by the Easterly line of Wallis Street for a distance of 487.40 feet to a point;

THENCE Westerly crossing Wallis Street for a distance of 50 feet, more or less, to a point on the Northerly line of Shady Lane;

THENCE Southwesterly, Northwesterly and Westerly by the Northerly line of Shady Lane for a distance of 1,645 feet, more or less, to a point;

THENCE Northwesterly, Northeasterly and Northwesterly by land, now or formerly, of Richard J. Spratt for a distance of 480.73 feet to a point;

THENCE Northwesterly by land, now or formerly, of Claire A. Dodd for a distance of 342 feet to a point;

THENCE Southwesterly continuing by land, now or formerly, of Claire A. Dodd for a distance of 208.12 feet to a point;

THENCE Northwesterly by land, now or formerly, of Ralph E. Yung for a distance of 421.16 feet to a point;

THENCE Southwesterly, Westerly and Northwesterly continuing by land, now or formerly, of Ralph E. Yung by the arc of a curve to the left for a distance of 200 feet to a point;

THENCE Northeasterly by land, now or formerly, of Philip Michaelson, for a distance of 201.18 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of Philip Michaelson for a distance of 528.04 feet to a point;

THENCE Northerly by land, now or formerly, of Francis C. Tebo, Donald G. Carpenter and Carol R. Johnson, respectively, for a distance of 225 feet to a point;

THENCE Northerly by land, now or formerly, of the William R. Meskeres Family Trust for a distance of 150 feet to a point on the Easterly line of Laurel Glades;

THENCE Southwesterly crossing Laurel Glades for a distance of 58 feet, more or less, to a point on the Westerly line of Laurel Glades;

THENCE Northwesterly by the Westerly line of Laurel Glades for a distance of 710 feet, more or less, to a point;

THENCE Northwesterly by land, now or formerly, of Hydro Projects, Inc. for a distance of 371.95 feet to a point;

THENCE Northeasterly continuing by land, now or formerly, of Hrdro Projects, Inc. for a distance of 300 feet to a point on the Southerly line of Northwest Main Street;

THENCE Northwesterly by the Southerly line of Northwest Main Street for a distance of 92 feet to a point;

THENCE Southwesterly by land, now or formerly, of Hydro Projects, Inc. for a distance of 311.15 feet to a point;

THENCE Northwesterly continuing by land, now or formerly, of Hydro Projects, Inc. for a distance of 443.33 feet to a point on the Easterly line of Ridge Trail;

THENCE Southwesterly by the Easterly line of Ridge Trail for a distance of 1,620 feet, more or less, to a point;

THENCE by the Southerly bound of land, now or formerly, of the Commonwealth of Massachusetts, it being Lots 149-1 and 158-18 on the Town of Douglas Assessors Maps, by various courses for a distance of 11,700 feet, more or less, to a point on the Westerly line of Wallis Street;

THENCE Northwesterly by the Westerly line of Wallis Street for a distance of 458.15 feet to a point;

THENCE Southeasterly crossing Wallis Street 35 feet, more or less, to the point of beginning.

**B. Actual Boundaries.**

(a) The general boundaries described in subsection (a) are intended to be guidelines only. The actual district boundaries shall include those separately assessed parcels within the town of Douglas as shown on the maps maintained by the board of assessors for the town and which either: (1) abut directly on the shoreline of Whitin Reservoir; or (2) except as set forth in the following paragraph, consists of all the property of a holder of a recorded private

right of access to land which abuts the shoreline of Whitin Reservoir in such a manner that the owner or proprietor of such land is afforded by such recorded right, a right of access to Whitin Reservoir for bathing, boating or other water recreational activities at a location where members of the general public may lawfully be excluded from such use.

(b) The actual boundaries of the district, as so comprised, shall likely include certain parcels situated outside of the general boundaries set forth in subsection A and may also exclude several parcels lying within said general boundaries.

**SECTION 2.** Membership in the district shall consist of the proprietors of separately assessed parcels of lands lying within the district which either abut Whitin reservoir or have a real property deeded access to Whitin reservoir, including, but not limited to, an easement to Whitin reservoir. For purposes of this act, “proprietor” shall include: natural persons and other entities empowered to own real estate in the commonwealth, including corporations, partnerships, realty and other trusts and federal, state and local governmental units; a mortgagee of record in possession of separately assessed parcels; and persons or entities who jointly own separately assessed parcel. Persons or entities who jointly own separately assessed parcels within the district shall collectively constitute one proprietor for purposes of this act.

Any private community beach or private access parcel, currently existing or hereafter created, within the general boundaries of the district shall be deemed a single proprietor. The community beach or private access parcel shall be assessed at the value of each beach and apportioned among all those parties with property rights therein. A holder of a recorded private right of access to or through such community beaches or private access parcels shall not be assessed individually nor shall a holder of such right be considered a proprietor except and to the extent that each community beach or private access parcel is deemed a proprietor.

This act shall not apply to any public beach, public access parcel, public boat ramp or any other parcel held by the commonwealth or the town of Douglas during the time that the parcel is owned or operated by the commonwealth or the town of Douglas; provided, however, that if a parcel reverts to private ownership or use in the future, it shall no longer be exempt from this act.

This act shall not apply to any parcel held by a recognized non-profit entity, which shall include but shall not be limited to agencies, corporations and trusts. The district, through its management, shall be the sole arbiter as to what shall constitute a recognized non-profit entity; provided however, that if a parcel reverts to private ownership or use in the future, it shall no longer be exempt from this act.

**SECTION 3.** The district, upon its establishment in the manner set forth in this act, shall have the following purposes and powers:

(a) to initiate and coordinate research and surveys for the purpose of gathering data on the lake, related shore lands, watershed and the drainage basis and other matters directly pertaining to the improvement of water quality, reclamation, preservation and maintenance of the lake for general recreational use;



(b) to plan lake rehabilitation, enhancement, maintenance and preservation projects and water quality improvement and to acquire by any legal manner, purchase, own, operate, repair, maintain or manage an impound or dam;

(c) to implement, conduct, coordinate and supervise such projects, subject to the grant of necessary approvals by the appropriate local, state and federal governmental agencies, including the town of Douglas, the department of environmental management, department of environmental protection, and the department of fisheries, wildlife and recreational vehicles, or their successor agencies and the appropriate funding or regulatory agencies of the federal government and, if required, under the supervision of such agencies;

(d) to make and enter into all manner of contracts and agreements necessary or incidental to the exercise of any power granted to the district by this act;

(e) to adopt an annual budget and to raise and appropriate funds in amounts necessary to carry out the purposes for which the district is formed;

(f) to acquire, dispose of and encumber real and personal property for the purposes of the district, including but not limited to the power to acquire real estate or a limited interest in real estate by eminent domain under and subject to chapters 79 and 80A of the General Laws; provided however, that, the district's power of eminent domain shall be limited to property lying within the general boundaries of the district not already appropriated to public use by the commonwealth or the town of Douglas and solely for the purposes set forth in subsections (a), (b) and (c);

(g) to manage, control and supervise equipment and facilities necessary or appropriate to accomplish the purposes of this act, including, but not limited to, weed harvesting equipment, dredging apparatus, lake draw down facilities for either temporary or permanent water level control, weed control or water quality improvement and recreational swimming and boating facilities for public use;

(h) to construct, acquire, or lease, or purchase, improve, maintain and operate such equipment and facilities and such other equipment, materials, supplies, facilities and services as shall be required to accomplish the purposes of this act, to the same extent and subject to the same limitations as shall apply to towns in the commonwealth under the General Laws;

(i) to apply for, accept and expend financial assistance from the federal government, the commonwealth, Worcester county and the town of Douglas;

(j) to apply for, receive and expend funds from charitable foundations or other private entities and individuals in the form of grants, gifts, loans and advances for purposes of the district;

(k) to employ such persons, including consultants as may be deemed necessary in its judgment, and to fix their compensation;

(l) to adopt by-laws, which shall be consistent with the powers conferred by this act and with other applicable provisions of the General Laws, for the regulation of its affairs and the conduct of its business;

(m) to perform all duties and exercise all responsibilities required by the town of Douglas, pursuant to any grant awarded by the department of environmental protection under

chapter 628 of the acts of 1981, chapter 286 of the acts of 1982, and chapter 722 of the acts of 1969, or any grant awarded by the division of environmental management or any other public agency, subject to approval by the commissioner of environmental protection or his designee so as to permit the district to act as direct grantee or sub-grantee under the town of Douglas;

(n) to borrow at any meeting of the district, for the purpose of meeting preliminary or current expenses, such sums as may be necessary and to issue therefor general obligation temporary notes for a period of not more than 2 years; provided, however, that such notes shall be issued only in anticipation of assessments and other revenues of the district for the fiscal year in which such notes are issued or in anticipation of money to be received from the sale of longer term bonds or notes for such purposes as are otherwise permitted in this act;

(o) to sue and be sued in its own name and to plead and be impleaded; provided, however, that neither the district nor any of its officers or employees shall be liable in tort except under chapter 258 of the General Laws; and provided further, that the district may indemnify its officers and employees to the extent provided in said chapter 258;

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

(q) to procure insurance against any loss or liability which may be sustained or incurred in carrying out this act in such amount as the district shall deem necessary and appropriate and with insurers licensed to furnish such insurance in the commonwealth;

(r) to perform generally all acts which are necessary or convenient to implement the powers which are expressly or by necessary implication conferred upon the district by this act and which are not otherwise prohibited under any provision of the General Laws; and

(s) in carrying out its purposes and exercising its powers as set forth in this act, the district shall, to the extent reasonably possible and in coordination with other sources, maintain water flows into the Mumford river sufficient to supply adequate water flows to the town of Douglas Municipal Sewage Treatment Plant, subject to chapter 253 and section 40 of chapter 131 of the General Laws and regulations promulgated thereunder.

**SECTION 4.** The board of selectmen of the town of Douglas shall, within 60 days of the effective date of this act, call a meeting of the proprietors of the lands to be included in the district as set forth under section 2. For the purposes of establishing an initial list of proprietors, the board of selectmen shall consult with the board of assessors who shall furnish to the board of selectmen a list of all property owners of record, as of January 1 in the year in which this act takes effect who are owners of one or more separately assessed shore front parcels or who, within the reasonable knowledge or belief of the assessors, are owners of separately assessed parcels which do not have frontage on Whitin reservoir but which possess deeded easement rights to the use of the Whitin reservoir frontage property, as set forth in section 2. The board of selectmen, upon receiving such list, shall prepare and mail by certified mail a notice to each such proprietor, signed by the selectmen and setting

forth a time and place of a meeting to occur within the 60-day period but not less than 14 days from the date of mailing of such notice. The notice shall be in the form of a warrant specifying the matters upon which action is to be taken at the meeting and shall further clearly state that the purpose of the meeting is to consider the organization of the district. The board of selectmen shall, not later than 14 days prior to the date of such meeting, cause a copy of the notice to be posted in at least 1 publicly accessible location within the town. The meeting shall be held at the Douglas town hall unless some other location within the town of Douglas is designated in the notice.

At the first meeting of the district, a selectman from the town of Douglas shall initially preside and shall call the meeting to order. The selectman shall thereupon determine whether or not the proprietors constituting a majority in interest in either aggregate assessed valuation of land and improvements or land area are present or represented by proxies duly executed and placed in the hands of other proprietors prior to said meeting. In the absence of such a majority, the meeting shall have no power to act, but the selectmen of the town may, in the manner provided above, call additional meetings for the same purpose within an additional 60-day period.

If a quorum has been determined to be present in the manner specified above, the meeting shall then proceed in the following order of business:

(a) the election of a temporary clerk, who shall be sworn in by a selectman present and a moderator who shall thereupon preside;

(b) the taking of a vote to determine whether or not the district shall be established and organized, which shall require an affirmative vote of 60 per cent of the proprietors present and voting in person or by proxy;

(c) if the vote taken under clause (b) shall be in the negative, the meeting shall thereupon adjourn and if such vote shall be in the affirmative and upon the required majority, the meeting shall proceed to conduct the business set forth in clauses (d ) to (g ), inclusive;

(d) the adoption of district by-laws and form of district seal;

(e) the election by ballot of a district clerk and a district treasurer, who may be the same person and who shall be legal residents of the commonwealth, to hold office until 1 year from the next succeeding annual meeting and at each annual meeting after the first clerk and treasurer shall be elected;

(f) the election by ballot of 4 members of the management committee, constituted in its entirety as set forth in this act, to hold office as follows: 1 member for 4 years, 1 for 3 years, 1 for 2 years and 1 for 1 year, from the next succeeding annual meeting;

(g) the adoption of an initial budget for the remainder of the fiscal year and the appropriation of monies to be raised by assessment upon the proprietors in support thereof; and

(h) the consideration of such other business as shall be consistent with the power and authority conferred by this act.

The district clerk shall retain all proxy votes cast at the initial meeting, together with



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the minutes of the meeting as part of the permanent record of the district. The clerk shall prepare a certificate of the vote taken to organize the district and shall affix the form of seal thereto as adopted by the initial district meeting and shall obtain the endorsement of the selectman initially presiding at the meeting thereon. The certificate shall be forwarded to the attorney general within 30 days following the adjournment of the meeting and upon the filing of such certificate, the Whitin Reservoir Watershed District shall be established.

At each annual meeting after the first, a member of the management committee shall be elected by ballot for 3 years. The officers of the district shall hold office until their successors are elected and qualified. Persons eligible for nomination and election to the management committee shall be at least 18 years of age and shall include persons entitled to vote as proprietors or as representatives of proprietors at district meetings.

**SECTION 5.** At the initial district meeting and at all subsequent annual and special district meetings, voting by proprietors shall be governed by this section. Persons or entities owning separately assessed parcels of land within the district shall each be entitled to cast 1 vote on any matter or issue to be voted upon at any such meeting, notwithstanding the total number of parcels owned by such person, persons or entities. Joint owners and entity proprietors shall designate, in writing to the clerk prior to the commencement of the meeting, the person authorized to vote on behalf of the proprietor at such meeting and such person shall be presumed to be qualified and authorized to represent the proprietor if such person shall be listed record owner of such parcel or parcels or if such person shall, as evidenced by any public record maintained under the laws of the commonwealth, be listed as a partner, trustee, agent, officer or employee of a proprietor. A person owning at least 1 parcel with his spouse shall not be required to furnish a written designation from his spouse and either shall be presumed to be qualified to vote.

The authority of a person to cast a proxy vote on behalf of a proprietor shall likewise be determined by the clerk. All proxies must be tendered in writing prior to the commencement of a district meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person who is to exercise the proxy, the signature of the proprietor granting the same and the date of execution. Unless otherwise specifically limited by their terms, such proxies shall entitle their holders to vote at any adjournment of such meeting. A proxy with respect to any proprietor where the property interest is held in the name of 2 or more persons shall be valid if executed by any 1 of them unless at or before exercise of the proxy the district receives a specific written notice to the contrary from either of them. A proxy purporting to be executed by or on behalf of a proprietor shall be deemed valid unless challenged at or before its exercise and the burden of proving invalidity shall rest on the challenger. All proxies shall be submitted in the form as set forth in this act.

**SECTION 6.** Annual meetings of the district shall be held on the last Thursday in March in each year or at such other time as the district shall establish from time to time in

its by-laws. Annual and other special meetings of the district shall be called by warrant by the management committee, notice of which shall be given at least 14 days before such meeting. The warrant shall be mailed first class, postage prepaid, to each proprietor of record in the district and a copy shall be directed to a constable of the town of Douglas or to some other person who shall cause a copy of such notice to be posted in at least 1 public place within the town or by advertising in a newspaper published at least weekly within Worcester county and having a general circulation within the town of Douglas. The warrant for all district meetings shall state the time and place of the meeting and the subjects to be acted upon. The management committee shall insert in the warrant of the annual meeting all subjects, the insertion of which shall be required of them in writing by 10 or more proprietors of the district and, in the warrant for every special district meeting, all subjects the insertion of which shall be requested of them in writing by 20 or more proprietors. The management committee shall call a special district meeting on its own initiative or upon a request, in writing, of not less than 20 proprietors, or proprietors constituting at least 20 per cent in interest, either in assessed valuation of land improvements or in total land area within the district. Special meetings so requested shall be held not later than 30 days after the receipt of such request. No action taken at an annual or a special district meeting shall be valid unless the subject matter thereof shall have been set forth in the warrant for such meeting. Two or more district meetings for distinct purposes may be called for by the same warrant. At every district meeting a moderator shall be chosen by ballot and shall have the powers of the moderator of a town meeting.

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

The board of assessors of the town of Douglas shall, at least 30 days prior to the annual district meeting, prepare and forward to the management committee a true and complete alphabetical listing with addresses of the proprietors reflected in their records as of January 1 of that year and from the records maintained by the assessors under chapter 59 and other related provisions of the General Laws. A copy of such list shall be maintained in a manner accessible to the proprietors and the general public at all reasonable times by the management committee and the district clerk and shall be available for inspection at the annual meeting and any special meeting of the district. The board of assessors shall likewise maintain a list of proprietors within the town by separate list or special designation on its list of all assessed parcels.

Quorum requirements for annual meetings and special meetings of the district shall be as specified for the initial district meeting set forth in this act or otherwise as the district shall determine in its by-laws; provided, however, that the quorum requirements at such meeting shall not be reduced below a number of proprietors constituting one-quarter in interest, either in aggregate assessed valuation of land and improvements or land area, whether voting in person or by proxy.

Any matter to be voted upon at an annual or special meeting of the district shall require only a majority of those proprietors present in person or by proxy and voting on the

question, except for the following actions which shall require a two-thirds vote: (1) a vote to petition for dissolution of the district; (2) a vote to purchase or otherwise acquire real property; and (3) a vote to finance an undertaking, which is authorized by this act to be financed in whole or in part by the issuance by the district of long-term notes or bonds.

**SECTION 7.** In addition to the 4 members elected by the district as provided in this act, the management committee shall include 1 member appointed from the board of selectmen of the town of Douglas or such other resident voter of the town as shall be appointed by its board of selectmen to serve on the management committee. Such selectman or other person shall serve at the pleasure of the board of selectmen appointing him.

The town appointed members shall serve for an indefinite term, at the pleasure of the board of selectmen of the town of Douglas and shall be voting member of the management committee and shall be permitted to participate fully in all discussions and deliberations of the committee. If the board of selectmen shall fail to so designate its member or if such member shall resign and no replacement shall have been designated in like manner, the management committee shall nonetheless be legally constituted with full power to carry out its duties and responsibilities as set forth in this act with the 4 members elected by the district.

The management committee shall have and shall exercise the following powers and duties:

(1) to expend, for the purposes permitted in this act, of the money raised and borrowed by the district;

(2) to annually prepare a budget, which shall include the committee's estimate of those monies required to be raised and appropriated by means of assessment upon the district proprietors by borrowing or otherwise to be received, for the management and operation of the district and the submission of such budget to the annual district meeting for its approval;

(3) to apply, in the name of the district, for grants, loans and other assistance from both governmental and nongovernmental entities;

(4) subject to prior appropriation therefore, to enter into agreements and contracts involving the purchase or lease of services, equipment and supplies consistent with the powers granted by this act;

(5) subject to prior appropriation therefor, to hire, supervise, suspend and discharge such employees as the committee shall deem necessary or appropriate for the conduct of the work to be performed by the district including, but not limited to, a district superintendent who shall have charge, on a day to day basis, of all district employees and who shall be responsible on behalf of the management committee for the conduct and supervision of any and all work to be performed by or on behalf of the district under this act; and

(6) subject to prior appropriation therefor, to set compensation and benefits for the district superintendent and all other employees by vote of the committee.

**SECTION 8.** The management committee shall meet as necessary and not less than every 4 months. A quorum of the management committee shall be required at all meetings



for the conduct of any business and shall consist of a majority of its voting members. The initial meeting of the management committee shall be not later than 30 days following the establishment of the district. Thereafter, the committee shall schedule 1 meeting to occur in each year immediately following the adjournment of the annual district meeting. At such initial meeting and at all subsequent meetings following the annual district meeting, the committee shall elect from its members a chairman who shall preside at all committee meetings and who shall serve until his successor shall be elected at the meeting following the annual district meeting. The committee shall also elect a vice chairman who shall be empowered to preside over committee meetings in the absence of the chairman and who shall serve for a like term.

The district may, subject to a prior appropriation therefor, provide appropriate compensation for district officers, including members of the management committee and including compensation for the expenses of travel, meals and lodging for such officers and committee members residing outside the district.

**SECTION 9.** Without limiting its powers as set forth in this act, the management committee shall have charge of expenditures on account of the district, duly budgeted and appropriated pursuant to the powers granted to the district, and shall exercise the authority conferred upon it by district by-law, except as otherwise expressly provided in this act.

**SECTION 10.** The district treasurer shall receive and take charge of all money belonging to the district and shall pay over and account for the same according to the order of the district or its management committee. The treasurer or, in his absence, any duly appointed person under the district by-laws shall pay district bills; provided, however, that this section shall not prohibit the treasurer from paying such bills by the use of a bank, treasurer's or cashier's check. He shall have the authority given to an auditor under section 52 of chapter 41 of the General Laws, and shall annually render a true account of his receipts and disbursements and report on his official acts to the district. The treasurer shall give bond annually for the performance of his duties in a form approved by the commissioner of revenue in such sum, not less than the amount established by the commissioner, as shall be fixed by the management committee and if the treasurer fails to give such bond within 10 days after his election or appointment or, if within 10 days after the expiration of such bond or any renewal of such bond, he fails to file a renewal thereof, the management committee shall declare the office vacant and the vacancy shall be filled by the committee in the manner set forth in section 12.

**SECTION 11.** The district clerk shall, in addition to the duties specified in this act, take all minutes at district meetings and at meetings of the management committee and maintain a record of such minutes in a manner provided for the maintenance of records of minutes of town meetings and of meetings by the board of selectmen. The clerk shall be the official responsible for the certification of any and all votes taken at a district meeting or a meeting of the management committee.

**SECTION 12.** Any vacancy occurring in the office of clerk, treasurer or member of

the management committee elected by the district may be filled by the district for the remainder of the unexpired term at any special meeting called for that purpose or, in the case of a vacancy in the office of clerk or treasurer or disability affecting either of such officers, the management committee may appoint a person to fill such vacancy until an election can be held or until the disability is removed. Such temporary appointee shall be sworn and shall perform the duties of the office to which he is appointed during his tenure. A temporary treasurer appointed to fill a vacancy shall give bond in the same manner as the treasurer.

**SECTION 13.** At its initial meeting and at the annual meeting each and every year thereafter, the district shall adopt, by two-thirds vote as set forth in this act, a method to be employed during the fiscal year to which the meeting relates for financing the share of its annual budget which is anticipated to be required to be funded by the district. The district may vote to adopt any of the following methods of financing, or any combination thereof:

(a) The district may raise by assessments upon the proprietors and by voluntary contributions the total sum required to meet such estimated expense.

(b) For materials, labor and services, the district may incur debt by a temporary loan in anticipation of the collection of assessments from the district members during the fiscal year in which such debt is incurred or during the next succeeding fiscal year and except as further modified on the initial fiscal year under subsection (n) of section 3.

(c) The district may incur debt to the amount necessary to pay that portion of such expense which relates solely to proposed long-term district improvements and major equipment purchases and may issue therefor notes or bonds and may issue notes or bonds on the condition that the first payment on account of the principal shall be deferred for a period of not more than 5 years from the date of issue of such notes or bonds and that the whole amount of such debt shall be payable within a period of not more than 25 years after such notes or bonds are issued. No such issue shall be for a term longer than the reasonably estimated useful life of the improvements, facilities or equipment to be so funded.

(d) Indebtedness incurred by the district under this section shall be subject to chapter 44 and to other provisions of the General Laws applicable to notes and bonds of districts except as otherwise provided in this act. If the district issues notes or bonds and thereafter receives an appropriation from other governmental entities to cover any part of the expenses of such improvements, the district, in its discretion, unless otherwise mandated by the terms and conditions of the grant from such governmental unit, shall make all or any part of such appropriation available to redeem notes or bonds of the district and shall hold the balance, if any, to the credit of the district to be used for the payment of the expense of such improvements, facilities or equipment. Bonds or notes issued under this section shall be the general obligations of the district.

That portion, if any, of the budgeted expense for the initial fiscal year and for each subsequent fiscal year which shall be required by the district for the payment of principal and interest on bonds and notes issued or to be issued by the district and which shall be due during the ensuing fiscal year, together with those amounts necessary to be raised by the district to maintain and operate the district during said fiscal year for capital outlay items, the

costs of which is not otherwise funded, and all other budgeted expenses for which the district is authorized to raise money, the costs of which items the district shall have voted to raise by assessment upon land and improvements of the proprietors within the district, shall be the subject of a separate vote at the initial district meeting. If the district so votes, the schedule of assessed valuations of land and improvements established by the board of assessors in the town of Douglas for the same fiscal year under the provisions of chapter 59 of the General Laws shall be relied upon as the basis for determination of the prorata share of the district budget voted to be raised and appropriated and paid by the proprietors upon their land and improvements within the district.

Following the adjournment of the initial district meeting and each annual district meeting thereafter, the clerk of the district shall certify to the assessors of the town of Douglas all sums of money and means of assessment voted upon at such meeting, which votes shall have been adopted by a two-thirds majority as provided in this act, together with the amount to be paid by each proprietor according to the determination made by such votes. The assessors of the town of Douglas shall, without further vote, assess such amounts upon the lands of the proprietors within the district and report to the collector of taxes of the town, who thereupon shall have and exercise the same powers and duties in relation to the collection of such assessments as he has and exercises relative to the collection of town taxes. The collector shall remit, monthly, to the district treasurer all sums collected by him on account of such assessments. An assessment made hereunder shall be a lien upon the land assessed by the town under section 37 of chapter 60 of the General Laws and other related provisions.

**SECTION 14.** The fiscal year of the district shall be the same fiscal year as established by the General Laws for cities and towns.

**SECTION 15.** Unless otherwise specified in this act or otherwise required by the General Laws, all actions permitted to be taken at annual or special district meetings shall require a majority vote of those proprietors entitled to vote and present in person or by proxy at a meeting, who shall constitute a quorum in accordance with this act or otherwise by by-law of the district. All actions permitted to be taken by the management committee shall require a majority vote of the committee members present at a meeting who shall constitute a quorum in accordance with this act.

**SECTION 16.** The district shall include, in its initial and in all subsequent annual appropriations, compensation for the board of assessors and the tax collector of the town of Douglas, under section 108B of chapter 41 of the General Laws, with respect to their duties and expenses hereunder.

**SECTION 17.** Notwithstanding their membership on the management committee, neither the town of Douglas, nor any agency or department of the town shall be obligated for any debts of the district, nor shall they, by virtue of this act, be required to pay for any liability, obligation or expense made, suffered or incurred by the district. In like manner, the proprietors of the district shall not be individually liable or obligated with respect to debts



or other obligations made, suffered or incurred by the district except with respect to the payment of assessments upon their land as provided for in this act.

**SECTION 18.** The district shall establish, in its initial budget and in all subsequent fiscal year budgets, an overlay account and a reserve fund as provided for towns under section 25 of chapter 59 and section 5C of chapter 40 of the General Laws except for the initial fiscal year, or portion thereof, for the operation of the district. The district may add to the amount to be raised by district assessment a sum voted by the district for not more than 20 per cent thereof for the purposes of and subject to the limitations in said section 25 of said chapter 59. The district may establish and maintain a stabilization fund under section 5B of chapter 40 of the General Laws. The district shall be subject to an audit of its accounts in the manner provided in section 40 of chapter 44 of the General Laws.

**SECTION 19.** Immediately upon the formation of the district, the district clerk shall cause a review to be made, at that time and from time to time thereafter, of the records required to be maintained by the board of assessors for the town of Douglas, including copies of deeds furnished to the board by the Worcester district registry of deeds in the county of Worcester, and shall otherwise take actions reasonably necessary to verify the list of proprietors to be included within the district. The clerk shall further cause to be prepared maps based in whole or in part upon the maps required to be maintained by the assessors of the town on which shall be shown the location of all proprietors' lands initially included as well as those which, upon such review, the district clerk determines should be included within the district. Thereafter, at any special meeting called for that purpose and not later than the next annual meeting, the district clerk shall furnish the management committee with a list of proprietors proposed for inclusion in the district and such maps depicting the approximate location and boundaries of such parcels as well as the existing parcels within the district. The committee shall furnish written notice in the manner provided for furnishing notice to a proprietor of a district meeting to the record owners of such parcels proposed for inclusion in the district. At the district meeting called for such purpose, the district shall, by its vote, determine whether or not its parcel or parcels shall be included within the district and shall furnish the record owners thereof with full opportunity to be heard prior to such vote as though such persons were proprietors of record entitled to vote thereon.

An original proprietor of the district and a record owner of real estate hereafter included within the district as a proprietor in the manner set forth in this section, shall have the right to petition the district, through its management committee, for exclusion from the district based upon an alleged lack of sufficient direct benefit to such proprietor's land with respect to the purposes for which the district shall have been established. The petition shall be in writing and shall set forth a summary of the reasons supporting the petition. The committee shall, upon receipt of such petition, conduct an investigation of the petition as it shall deem appropriate and shall, at its next regular meeting or sooner at a special meeting and upon at least 7 days written notice to the petitioner, consider and vote on the petition. A vote by the management committee to exclude the land of the petitioner from the district

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shall be final. In the event that the management committee votes to disapprove the petition or fails to act on the petition before the next annual meeting of the district, the petition shall be included in the warrant for such meeting and the district shall vote on it at that time. If the district votes to disallow the petition, the petitioner may appeal to the superior court within the county in which the district is located for relief. Upon such appeal, the court shall, if satisfied by the reasons set forth by the petitioner, grant such exclusion. Such exclusion, if the petition shall have been filed in writing before December 31 of the then current fiscal year, shall result in an abatement of district assessment from the commencement of such fiscal year; provided, however, that such abatement shall not be effective until the commencement of the next fiscal year.

**SECTION 20.** Once established pursuant to this act, the district shall not dissolve without specific authorization by the general court, which shall not be given until provision has been made for the payment of any obligations of the district. Such dissolution may be initiated by the general court, by two-thirds vote at a regular or special district meeting or by petition by the town of Douglas under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution.

**SECTION 21.** This act shall take effect upon its passage; provided, however, that if the initial meeting of the district shall not occur and the certified vote evidencing the establishment of the district shall not be filed with the attorney general within 1 year after its passage, this act shall be repealed.

Approved May 13, 2008

## **Chapter 104. AN ACT AUTHORIZING THE TOWN OF LONGMEADOW TO CONTINUE THE EMPLOYMENT OF POLICE CHIEF ROBERT DANIO.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, Robert Danio, chief of the police department of the town of Longmeadow, may continue in such position until May 31, 2009. The appointing authority may, at its own expense, require that Robert Danio be examined by an impartial physician to determine that he is mentally and physically capable of performing the duties of that position. Deductions shall continue to be made from the regular compensation of Robert Danio under chapter 32 of the General Laws for any service performed until May 31, 2009. Upon retirement Robert Danio shall receive a superannuation allowance, or a veteran's pension allowance, including such actual service until May 31, 2009.

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

Approved May 13, 2008

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**Chapter 105. AN ACT RELATIVE TO GARY J. LOPES, JR., AN EMPLOYEE OF THE TOWN OF WAREHAM.**

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

**SECTION 1.** Notwithstanding any general or special law or rule or regulation to the contrary, the town of Wareham may pay to Gary J. Lopes, Jr., an employee of the town of Wareham who was granted a military leave of absence to serve in Iraq after September 11, 2001, the amount of \$20,718.71. This amount constitutes the regular base salary that Gary J. Lopes, Jr., would have received as a town of Wareham employee during his military leave reduced by the amount he received from the United States as base pay for military service performed during the same pay period.

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

Approved May 13, 2008

**Chapter 106. AN ACT ESTABLISHING THE POSITION OF MUNICIPAL HEARING OFFICER IN THE CITY OF SOMERVILLE.**

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

**SECTION 1.** Notwithstanding section 21D of chapter 40 of the General Laws, a person who desires to contest a violation of any ordinance of the city of Somerville alleged in a notice to appear, pursuant to violations issued by the city in accordance with said section 21D of said chapter 40 of the General Laws, shall request, in writing, a hearing before a municipal hearing officer, who shall be appointed by the mayor, with the approval of the board of aldermen, to conduct requested hearings pursuant to this act. The notice to appear shall be in the format required under said section 21D of said chapter 40, except that the third copy of the notice shall be submitted to the municipal hearing officer. The municipal hearing officer may be the same person appointed as municipal hearing officer pursuant to chapter 148A of the General Laws.

**SECTION 2.** Where a notice to appear is for 1 or more code violations, the person notified to appear shall return the notice of violation by mail, personally or by an authorized person to the municipal hearing officer and shall, within 21 days, either: (a) pay, in full, the scheduled assessment by check, postal note or money order; or (b) request a hearing before the municipal hearing officer. Any amounts paid shall be payable to the city of Somerville. If the person notified to appear requests, in a timely manner, a hearing before the municipal hearing officer, the municipal hearing officer shall schedule a hearing not later than 45 days after receiving the hearing request. The municipal hearing officer shall send a hearing notice to duly notify the person notified to appear of the date, time and location of the hearing. Hearings shall be held at least twice each month, in the evening. When a hearing notice is



sent, the person notified to appear shall be given an opportunity to request a rescheduled hearing date. The municipal hearing officer, so designated, shall not be an employee or officer of the department associated with the issuance of the notice of violation. The municipal hearing officer shall receive annual training in the conduct of administrative hearing procedure. The hearings and dispositions by the municipal hearing officer shall be informal and the formal rules of evidence shall not apply. In conducting the hearings, the municipal hearing officer shall find whether the violation occurred and whether it was committed by the person so notified to appear.

**SECTION 3.** Any person aggrieved by a decision of the municipal hearing officer, after a hearing, may appeal to the district court pursuant to section 21D of chapter 40 of the General Laws, on a form provided by the city, and shall be entitled to a de novo hearing before a clerk magistrate of the court. The district court shall consider such appeals under a civil, as opposed to a criminal, standard. The aggrieved person shall file the appeal within 10 days after receiving notice of the decision from the municipal hearing officer who conducted the hearing.

**SECTION 4.** Any person who has received a notice to appear issued in accordance with this procedure who, within the prescribed time: fails to pay the scheduled assessment; fails to request a hearing before the municipal hearing officer; or fails to appear at the time and place of the hearing shall be found responsible for the violations as stated in the notice to appear and such finding of responsibility shall be considered prima facie evidence of a finding of responsibility for the violation in any civil proceeding regarding said violation and shall be admissible as evidence in a subsequent criminal proceeding. A person who fails to appear at the scheduled hearing without good cause shall have the appeal dismissed and shall waive any further right to appeal. If the condition which caused the notice to appear to issue continues to exist, the finding of responsibility may also be used by the city of Somerville as prima facie evidence of the existence of a violation in any proceeding to suspend or revoke any license, permit or certificate issued by the city relative to the building, structure or premises pending the correction of the condition.

**SECTION 5.** All fines, penalties or assessments in actions under this act, shall be paid to the general fund of the city of Somerville.

Approved May 13, 2008

**Chapter 107. AN ACT DESIGNATING A CERTAIN CORNER IN THE WEST ROXBURY SECTION OF THE CITY OF BOSTON AS THE NICHOLAS G. BERAM VETERANS ASSOCIATION CORNER.**

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

The intersection of Weld street and West Roxbury parkway in the West Roxbury section of the city of Boston shall be designated and known as the Nicholas G. Beram Veterans

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Association Corner in honor and memory of the members of the Nicholas G. Beram Veterans Association who have served in the armed forces of the United States during wartime. The department of conservation and recreation shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

Approved May 13, 2008

### **Chapter 108. AN ACT RELATIVE TO TOWN MEETING VOTES IN THE TOWN OF LEXINGTON.**

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

Section 8 of chapter 215 of the acts of 1929, as most recently amended by section 1 of chapter 158 of the acts of 1992, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- If, within said 5 days, a petition signed by not less than 3 per cent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the selectmen requesting that the question or questions involved in any such vote which has not become operative as aforesaid be submitted to the voters of the town at large, then the operation of such votes shall be further suspended pending its determination as hereinafter provided, and the selectmen, within 10 days after the filing of the petition, shall forthwith call a special meeting for the purpose of presenting to the voters at large the question or questions so involved.

Approved May 14, 2008

### **Chapter 109. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARIE SILVA, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.**

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

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

Notwithstanding any general or special law or rule or regulation to the contrary, the department of mental retardation shall establish a sick leave bank for Marie Silva, 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 Marie Silva. Whenever Marie Silva terminates employment with the department or requests to dissolve

the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved May 21, 2008

**Chapter 110. AN ACT RELATIVE TO INCURRING INDEBTEDNESS IN THE TOWN OF IPSWICH.**

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

**SECTION 1.** Chapter 324 of the acts of 1994 is hereby repealed.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, Chapter II of the general bylaws of the town of Ipswich is hereby amended by striking out section 6 and inserting in place thereof the following section:-

**Section 6. Bond Appropriations**

No appropriation to be raised by bonds of the town of Ipswich, except for an appropriation of an amount of less than one tenth of 1 per cent of the current total equalized valuation of the town for any purpose, shall be adopted unless the article calling for such appropriation shall have: (1) received a two-thirds majority vote by town Meeting, in accordance with chapter 44 of the General Laws, after there has been full opportunity for debate on the merits of any such article; and (2) received a majority vote on a printed ballot. If the article shall have received a two-thirds majority vote of town Meeting, then the board of selectmen shall forthwith call for a special election for the purpose of voting on the appropriation, such election to be called in accordance with the General Laws. Notwithstanding the preceding sentence, the board of selectmen may vote to include a ballot question required by this section on the town's annual election ballot, which vote shall only be effective if the corresponding annual town Meeting has approved the appropriation pursuant to this section. The statement of the purpose of the appropriation shall be substantially the same in the article as it is in the ballot question.

**SECTION 3.** Nothing in this special act shall preclude the right of the town meeting to modify section 6 of Chapter II of the bylaws of the town of Ipswich without seeking a special act of the general court.

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

Approved May 21, 2008



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**Chapter 111. AN ACT AUTHORIZING THE APPOINTMENT OF BRIAN SANTARLASCI AS A POLICE OFFICER IN THE CITY OF HAVERHILL NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.**

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

**SECTION 1.** The personnel administrator of the human resources division shall certify notwithstanding any general or special law or rule or regulation to the contrary Brian Santarlasci to be eligible for original appointment to the position of police officer in the city of Haverhill according to the grade he received on the examination for police officer held in May of 2007, notwithstanding the maximum age for that position. If Brian Santarlasci meets all other requirements for certification as a police officer, the city of Haverhill may appoint him.

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

Approved May 21, 2008

**Chapter 112. AN ACT FURTHER REGULATING THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF SOMERVILLE.**

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

**SECTION 1.** Chapter 650 of the acts of 1953 is hereby amended by striking out section 4, as amended by section 1 of chapter 94 of the acts of 1988, and inserting in place thereof the following section:-

Section 4. There shall be within the department of public works the following divisions:

- (1) division of highways, electric lines and lights;
- (2) division of engineering;
- (3) division of waterworks; and
- (4) division of buildings and grounds.

Existing divisions may be eliminated or new divisions created as may be considered necessary by the mayor with the approval of the board of aldermen.

Each division of the department of public works shall have the management and control of those duties as may be determined by the commissioner of public works or by the board of aldermen.

**SECTION 2.** Said chapter 650 is hereby further amended by striking out section 5, as most recently amended by section 3 of said chapter 94, and inserting in place thereof the following section:-

Section 5. There shall be a superintendent of the division of highways, electric lights

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and lines; a city engineer; a superintendent of the division of waterworks; a superintendent of the division of buildings and grounds; and a supervisor of school facilities and energy conservation. The city engineer and the superintendents of the various divisions shall have charge of their respective divisions under the direction of the commissioner of public works.

The mayor shall annually appoint, subject to the confirmation of the board of aldermen, a superintendent of the division of highways, electric lights and lines; a city engineer who may also be the commissioner of public works; a superintendent of waterworks; an operations manager of waterworks; a 311 director; a superintendent of the division of buildings and grounds; and a supervisor of school facilities and energy conservation.

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

Approved May 21, 2008

## Chapter 113. AN ACT AUTHORIZING THE TOWN OF ROCKLAND TO ESTABLISH A SCHOOL BUILDING CAPITAL TRUST FUND.

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Rockland may establish and maintain a special account to be known as the School Building Capital Trust Fund and may raise and appropriate money therefor. The fund shall be used only toward the design, engineering, land purchase, construction and any other costs associated with the construction or rehabilitation of Rockland public schools. The proceeds of all sales of lands and buildings by the Rockland public schools shall be placed into the School Building Capital Trust Fund.

The town of Rockland may appropriate by majority vote at an annual or a special town meeting any principal and interest within the fund for a capital purchase or principal debt payment for any capital purchase associated with the construction or rehabilitation of Rockland public schools. Capital purchase shall mean the purchase of any item with a cost of at least \$50,000 and a life expectancy of at least 5 years.

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 School Building Capital Trust Fund.

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

Approved May 21, 2008

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## Chapter 114. AN ACT RELATIVE TO OCEANS.

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

**SECTION 1.** Chapter 10 of the General Laws is hereby amended by inserting after section 35GG the following section:-

Section 35HH. There shall be established and set up on the books of the commonwealth a separate fund to be administered by the secretary of energy and environmental affairs, as trustee, in consultation with the department of environmental protection, to be known as the Ocean Resources and Waterways Trust Fund. There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any appropriation or grant explicitly made to the fund and any income derived from the investment of amounts credited to the fund and the proceeds from any ocean development mitigation fees established pursuant to section 18 of chapter 132A. The priority for use of funds derived from compensation or mitigation for ocean development projects shall be to restore or enhance marine habitat and resources impacted by the project for which the compensation or mitigation shall have been received. The funds derived from compensation or mitigation related to public navigational impacts shall be dedicated to public navigational improvements; provided, however, that any funds for the enhancement of fisheries resources shall be directed to conduct fisheries restoration and management programs. Any other amounts credited to the fund shall be used, without further appropriation, only for the purposes of environmental enhancement, restoration and management of ocean resources by the secretary pursuant to section 4C of chapter 21A. No expenditure from the fund shall cause the fund to be in deficiency at the close of a fiscal year. Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

**SECTION 2.** Chapter 21A of the General Laws is hereby amended by inserting after section 4B the following section:-

Section 4C. (a) The ocean waters and ocean-based development of the commonwealth, within the ocean management planning area described in this section, shall be under the oversight, coordination and planning authority of the secretary of energy and environmental affairs, hereinafter referred to as the secretary, in accordance with the public trust doctrine. Notwithstanding any general or special law to the contrary, the secretary, in consultation with the ocean advisory commission established pursuant to subparagraph (c) and the ocean science advisory council established pursuant to subparagraph (d), shall develop an integrated ocean management plan, which may include maps, illustrations and other media. The plan shall: (i) set forth the commonwealth's goals, siting priorities and standards for ensuring effective stewardship of its ocean waters held in trust for the benefit of the public; and (ii) adhere to sound management practices, taking into account the existing natural, social, cultural, historic and economic characteristics of the planning areas; (iii) preserve and protect the public trust; (iv) reflect the importance of the waters of the commonwealth to its citizens who derive livelihoods and recreational benefits from fishing;



(v) value biodiversity and ecosystem health; (vi) identify and protect special, sensitive or unique estuarine and marine life and habitats; (vii) address climate change and sea-level rise; (viii) respect the interdependence of ecosystems; (ix) coordinate uses that include international, federal, state and local jurisdictions; (x) foster sustainable uses that capitalize on economic opportunity without significant detriment to the ecology or natural beauty of the ocean; (xi) preserve and enhance public access; (xii) support the infrastructure necessary to sustain the economy and quality of life for the citizens of the commonwealth; (xiii) encourage public participation in decision-making; (xiv) and adapt to evolving knowledge and understanding of the ocean environment; and (xv) shall identify appropriate locations and performance standards for activities, uses and facilities allowed under sections 15 and 16 of chapter 132A. The division of marine fisheries, pursuant to chapter 130 and any other applicable general or special law, shall have sole responsibility for developing and implementing any fisheries management plans or fisheries regulations. Marine fisheries shall be managed in compliance with the applicable rules and regulations of the division of marine fisheries and federal or interstate fishery management plans issued pursuant to said chapter 130 or any other applicable general or special law and shall be integrated, to the maximum extent practicable, with an ocean management plan.

(b) An ocean management plan shall include any waters and associated submerged lands of the ocean, including the seabed and subsoil, lying between the line designated as the "Nearshore Boundary of the Ocean Management Planning Area", which is depicted on a plan dated January 31, 2006, prepared by the office of coastal zone management and maintained at the executive office of energy and environmental affairs and with the clerks of the house and the senate, and the seaward boundary of the commonwealth, as defined in 43 U.S.C. § 1312. An ocean management plan may take into account the different regional characteristics of the commonwealth's waters. A plan shall include existing municipal, state and federal boundaries and may include recommendations for clarifying those boundaries.

(c)(i) There shall be an ocean advisory commission to assist the secretary in developing the ocean management plan. The commission shall consist of 3 members of the senate, 1 of whom shall be appointed by the minority leader of the senate; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader of the house of representatives; the director of coastal zone management or his designee; the director of marine fisheries or his designee; the commissioner of environmental protection or his designee; and 8 members to be appointed by the governor, 1 of whom shall be a representative of a commercial fishing organization, 1 of whom shall be a representative of an environmental organization, 1 of whom shall have expertise in the development of offshore renewable energy, 1 of whom shall be a representative of the Cape Cod commission, 1 of whom shall be a representative of the Martha's Vineyard Commission, 1 of whom shall be a representative of the Merrimack Valley Planning Commission, 1 of whom shall be a representative of the metropolitan area planning council and 1 of whom shall be a representative of the Southeastern Regional Planning and Economic Development District. Members shall be appointed for terms of 3 years, except that, initially, 4 members appointed

by the governor shall be appointed for terms of 2 years and 3 members appointed by the governor shall be appointed for terms of 1 year. The appointing authority may fill any vacancy that occurs in an unexpired term. The members of the commission shall be selected with due regard to coastal geographic distribution.

(ii) The commission shall meet at least quarterly and at the discretion of the secretary. The commission shall hold public meetings relative to matters within the jurisdiction of the ocean management plan and shall make recommendations to the secretary for the proper management and development of the plan. The secretary shall consider the recommendations of the commission.

(iii) The office of coastal zone management and division of marine fisheries shall provide technical support to the commission.

(d) There shall be an ocean science advisory council to assist the secretary in creating a baseline assessment and obtaining any other scientific information necessary for the development of an ocean management plan. The council shall consist of 9 members to be appointed by the secretary, 3 of whom shall be scientists from academic institutions, at least 1 of whom shall be from the School for Marine Science and Technology at the University of Massachusetts at Dartmouth and at least 1 of whom shall be from the Department of Environmental, Earth and Ocean Sciences at the University of Massachusetts at Boston; 3 of whom shall be scientists from private, nonprofit organizations, at least 1 of whom shall be a scientist designated by the Massachusetts Fishermen's Partnership; and 3 of whom shall be scientists from government agencies with demonstrated technical training and experience in the fields of marine ecology, geology, biology, ichthyology, mammalogy, oceanography or other related ocean science disciplines, at least 1 of whom shall be from the division of marine fisheries. The secretary shall serve as coordinator of the council. The council shall meet at least quarterly and at any other time that the secretary shall deem necessary to assist him in compiling the scientific information necessary for the development of an ocean management plan.

(e) Upon the secretary's adoption of an ocean management plan, all certificates, licenses, permits and approvals for any proposed structures, uses or activities in areas subject to the ocean management plan shall be consistent, to the maximum extent practicable, with the plan.

(f) The secretary shall develop and implement a public outreach and information program to provide information to the public regarding the ocean management planning process.

(g) The secretary shall, at least 6 months before establishing an ocean management plan pursuant to this section, provide for public access to the draft plan in electronic and printed copy form and shall provide for a public comment period, which shall include at least 4 public hearings in at least 4 different coastal regions. The secretary shall publish notice of the hearings in the Environmental Monitor within 30 days of the date of the hearing. A notice of the public hearing shall also be placed, at least once each week for the 4 consecutive weeks preceding the hearing, in newspapers with sufficient circulation to notify



the residents of the coastal region where the hearing shall be held. The hearing shall be held not sooner than 30 days and not later than 35 days after the notice is published in the Environmental Monitor. The public comment period shall remain open for at least 60 days from the date of the final public hearing. After the close of the public comment period, the secretary shall issue a final ocean management plan and shall file the plan, together with legislation necessary to implement the plan, if any, by filing the same with the clerks of the house of representatives and senate.

(h) The secretary shall promulgate regulations to implement, administer and enforce this section and shall interpret this section and any regulations adopted hereunder consistent with his power to enforce the laws. These regulations shall include provisions for the review of the ocean management plan, its baseline assessment and the enforceable provisions of relevant statutes and regulations at least once every 5 years.

(i) The joint committee on state administration and regulatory oversight, in this subsection called the committee, may review a proposed ocean management plan or regulations proposed or adopted pursuant to this chapter. The committee shall consult with the joint committee on environment, natural resources and agriculture in performing this review. The committee may hold public hearings concerning a proposed ocean management plan or a proposed or existing regulation and may submit to the secretary comments concerning the merit and appropriateness of the plan or regulations to be promulgated and an opinion on whether the proposed plan or regulations are authorized by, and consistent with, this chapter and existing state laws and regulations. The secretary shall respond in writing within 10 days to the committee's written questions relevant to the committee's review of a proposed plan or proposed or existing regulation. The secretary shall provide to the committee, without charge, copies of all public records in the secretary's custody relating to the proposed plan or 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 plan or proposed or existing regulation and shall transmit this report to the secretary. If the secretary does not adopt the proposed changes contained in the committee's report, the secretary shall notify the committee in writing of the reasons why he did not adopt the changes either at the time he adopts a proposed plan or proposed regulation or within 21 days of receiving the committee's report on an existing regulation.

(j) The ocean management plan shall be consistent with this section and all other general and special laws. The ocean management plan shall not be construed to supersede existing general or special laws, or to confer rights and remedies in addition to those conferred by existing general or special laws.

(k)(1) In the geographic area subject to the ocean management plan, as described in paragraph (b), commercial and recreational fishing shall be allowable uses, subject to the exclusive jurisdiction of the division of marine fisheries. Any component of a plan which regulates commercial or recreational fishing shall be developed, promulgated and enforced by the division of marine fisheries pursuant to its authority under chapter 130.



(2) A component of an ocean management plan which does not have as its primary purpose the regulation of commercial or recreational fishing but which has an impact on such fishing shall minimize negative economic impacts on commercial and recreational fishing. Prior to inclusion in an ocean management plan, a component with such a reasonably foreseeable impact shall be referred to the division of marine fisheries, which shall, in writing and in a timely and efficient manner, evaluate the component for its impact on commercial and recreational fishing and, if possible, develop and recommend to the secretary any suggestions or alternatives to mitigate or eliminate any adverse impacts.

(3) The director of marine fisheries, subject to the approval of the marine fisheries advisory commission, shall have sole authority for the opening and closing of areas within the geographic area described in subsection (b) for the taking of any and all types of fish, pursuant to section 17A of chapter 130. Nothing in this section shall be construed to limit the powers of the director pursuant to section 17 of chapter 130 or any other provision thereto.

**SECTION 3.** Section 12B of chapter 132A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definitions of “Commissioner” and “Department” and inserting in place thereof the following definition:-

“Director”, the director of coastal zone management.

**SECTION 4.** Said section 12B of said chapter 132A, as so appearing, is hereby further amended by inserting after the definition of “Facilities plan” the following definition:-

“Office”, office of coastal zone management.

**SECTION 5.** Section 12C of said chapter 132A, as so appearing, is hereby amended by striking out, in lines 1 and 3, the word “department” and inserting in place thereof, in each instance, the following word:- office.

**SECTION 6.** Section 14 of said chapter 132A, as so appearing, is hereby amended by striking out, in line 2, the word “department” and inserting in place thereof the following word:- office.

**SECTION 7.** Said chapter 132A, as so appearing, is hereby further amended by striking out section 15 and inserting in place thereof the following section:-

Section 15. Except as otherwise provided in this section, the following activities shall be prohibited in an ocean sanctuary:

(1) the building of any structure on the seabed or under the subsoil;

(2) the construction or operation of offshore or floating electric generating stations, except: (a) on an emergency and temporary basis for the supply of energy when the electric generating station is otherwise consistent with an ocean management plan; or (b) for appropriate-scale renewable energy facilities, as defined by an ocean management plan promulgated pursuant to section 4C of chapter 21A, in areas other than the Cape Cod Ocean Sanctuary; provided, however, that (i) the renewable energy facility is otherwise consistent with an ocean management plan; (ii) siting of all such facilities shall take into account all relevant factors, including but not limited to, protection of the public trust, compatibility with

existing uses, proximity to the shoreline, appropriateness of technology and scale, environmental protection, public safety and community benefit; and (iii) in regions where regional planning agencies have regulatory authority, a regional planning agency may review the appropriate-scale offshore renewable energy facilities as developments of regional impact and the applicant may seek review pursuant to the authority of the energy facilities siting board to issue certificates of environmental impact and public interest pursuant to sections 69K through 69O of chapter 164;

(3) the drilling or removal of any sand, gravel or other minerals, gases or oils;

(4) the dumping or discharge of commercial, municipal, domestic or industrial wastes;

(5) commercial advertising; or

(6) the incineration of solid waste or refuse on, or in, vessels moored or afloat within the boundaries of an ocean sanctuary.

**SECTION 8.** Section 16 of said chapter 132A, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

**SECTION 9.** Said section 16 of said chapter 132A, as so appearing, is hereby further amended by striking out, in line 20 and in lines 28 and 29, the word “department” and inserting in place thereof, in each instance, the following word:- office.

**SECTION 10.** Said section 16 of said chapter 132A, as so appearing, is hereby further amended by striking out, in lines 29 and 30, the words “fisheries, wildlife and environmental law enforcement” and inserting in place thereof the following words:- fish and game.

**SECTION 11.** Section 16A of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in line 6, the following words:- of environmental protection.

**SECTION 12.** Section 16B of said chapter 132A, as so appearing, is hereby amended by striking out, in line 26 and in lines 30 and 31, the words “and the division of water pollution control” and inserting in place thereof the following words:- of environmental protection.

**SECTION 13.** Section 16C of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in lines 1 and 5, the following words:- of environmental protection.

**SECTION 14.** Section 16E of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in lines 1 and 2 and line 5, the following words:- of environmental protection.

**SECTION 15.** Said section 16E of said chapter 132A, as so appearing, is hereby further amended by inserting after the word “commissioner”, in lines 13 and 14, the following words:- of environmental protection.

**SECTION 16.** Section 16F of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in line 1, the following words:- of environmental protection.

**SECTION 17.** Said section 16F of said chapter 132A, as so appearing, is hereby further amended by striking out the last sentence.

**SECTION 18.** Section 18 of said chapter 132A, as so appearing, is hereby amended by inserting, after the word “of”, in line 2, the following words:-energy and.

**SECTION 19.** Said section 18 of said chapter 132A, as so appearing, is hereby further amended by striking out, in lines 7 and 8 and line 9, the word “department” and inserting in place thereof, in each instance, the following word:- office.

**SECTION 20.** Said section 18 of said chapter 132A, as so appearing, is hereby further amended by adding the following paragraph:-

Any permit or license issued by a department, division, commission, or unit of the executive office of energy and environmental affairs and other affected agencies or departments of the commonwealth for activities or conduct consistent with this chapter shall be subject to an ocean development mitigation fee as shall be established by the secretary of energy and environmental affairs; provided, however, that no fee shall be assessed on commercial and recreational fishing permits or licenses. All the proceeds of the ocean development mitigation fee shall be deposited in the Ocean Resources and Waterways Trust Fund established pursuant to section 35HH of chapter 10.

**SECTION 21.** Nothing in this act shall be construed to alter the jurisdictional authority of the division of marine fisheries. Nothing in this act shall be construed to prohibit the transit of commercial fishing vessels and recreational vessels in state ocean waters.

**SECTION 22.** Any project that, before the effective date of this act, has: (1) filed a license application under chapter 91 of the General Laws and received a written determination of completeness from the department of environmental protection; (2) if subject to section 61 of chapter 30 of the General Laws, received a certificate of adequacy regarding a final environmental impact report; or (3) if the project is subject to the jurisdiction of the energy facilities siting board, received both a final decision from the energy facilities siting board and a certificate of adequacy regarding a draft environmental impact report, shall not be subject to the requirements of said ocean management plan.

**SECTION 23.** The secretary of energy and environmental affairs shall promulgate a final ocean management plan by December 31, 2009. Upon adoption, an ocean management plan shall formally be incorporated into the Massachusetts coastal zone management program, as referenced in section 4A of chapter 21A of the General Laws.

**SECTION 24.** Section 8 of this act shall take effect upon the adoption of an ocean management plan or by December 31, 2009, whichever occurs first.

**SECTION 25.** The secretary of energy and environmental affairs shall convene an



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advisory committee for the purpose of reviewing section 16 of chapter 132A of the General Laws and regulations promulgated pursuant thereto. The advisory committee shall review the regulatory definitions of "public necessity and convenience" and "significant alteration". The secretary shall submit a report, together with legislative recommendations, if any, to the joint committee on environment, natural resources and agriculture by December 31, 2009.

Approved May 28, 2008

**Chapter 115. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARYA PANZICA, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.**

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

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

Notwithstanding any general or special law, rule or regulation to the contrary, the department of mental retardation shall establish a sick leave bank for Marya Panzica, 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 Marya Panzica. Whenever Marya Panzica terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved May 28, 2008

**Chapter 116. AN ACT FURTHER REGULATING MUNICIPAL RETIREE HEALTH INSURANCE IN THE TOWN OF LANESBOROUGH.**

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

**SECTION 1.** Notwithstanding chapter 32B of the General Laws or any other general or special law to the contrary, the town of Lanesborough shall provide to its former employees who have retired from the service of the town before July 1, 1993 and to their eligible dependents 90 per cent of their health and dental insurance premiums. The town of Lanesborough shall continue to provide to the retired employees and their eligible dependents with 90 per cent of their health and dental insurance premiums for as long as they

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remain continuously enrolled in the health and dental care benefit plan or its equivalent, notwithstanding any alteration in health and dental insurance plans or health and dental insurance premiums by the town.

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

Approved May 28, 2008

## **Chapter 117. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DEBORAH McNAMARA, AN EMPLOYEE OF THE DEPARTMENT OF CONSERVATION AND RECREATION.**

*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 conservation and recreation, 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 conservation and recreation shall establish a sick leave bank for Deborah McNamara, 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 Deborah McNamara. Whenever Deborah McNamara terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved May 28, 2008

## **Chapter 118. AN ACT ESTABLISHING A WATERWAYS DREDGE AND MAINTENANCE PROGRAM RECEIPTS RESERVED CAPITAL IMPROVEMENTS FUND IN THE TOWN OF DENNIS.**

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

**SECTION 1.** (a) 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 Waterways Dredge and Maintenance Program Receipts Reserved and Capital Improvements Fund. There shall be deposited into the fund, without further appropriation, a portion of the revenue collected from the operation of Dennis waterways. Appropriations from the fund shall be made by the town of Dennis only for waterways dredging and maintenance.

(b) There shall be deposited into the fund, without further appropriation, a portion of the fees collected from the following: (i) \$2 per foot of the fee in effect on the effective date of this act for rental of municipal slips; (ii) \$2 per foot in addition to the existing fee for boats utilizing private docks; (iii) \$1 in addition to the existing fee for the daily parking of vehicles and trailers and \$5 in addition to the existing fee for seasonal stickers for the parking of vehicles with boat trailers; and (iv) a new fee of \$2 per foot for owners of dry stored launched boats, known as rack-stored boats. Appropriations from the fund may be made at an annual or special town meeting to pay for the dredging of navigable waterways or harbors or miscellaneous expenses relative thereto.

(c) The board of selectmen of the town of Dennis may, if authorized by by-law, increase or decrease the portion of the fees. The Waterways Dredge and Maintenance Program Receipts Reserved and Capital Improvements Fund shall be maintained by the town treasurer as a separate account and shall be subject to any applicable provisions of chapter 44 of the General Laws. Interest earned on the fund shall be credited to and become part of the fund.

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

Approved May 28, 2008

## **Chapter 119. AN ACT FINANCING THE PRODUCTION AND PRESERVATION OF HOUSING FOR LOW AND MODERATE INCOME RESIDENTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the financing of the production and preservation of housing for low and moderate income citizens of the commonwealth and to make related changes in certain laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** To provide for a capital outlay program to rehabilitate, produce and modernize state-owned public housing developments; to preserve the affordability and the income mix of state-assisted multifamily developments; to support home ownership and rental housing opportunities for low and moderate income citizens; to stem urban blight through the implementation of housing stabilization programs; to support housing production for the elderly, disabled and homeless; to preserve housing for the elderly, the homeless and low and moderate income citizens and people with disabilities; and to promote economic reinvestment through the funding of infrastructure improvements, the sums set forth in section 2, for the several purposes and subject to the conditions specified in this act, are hereby made available subject to the laws regulating the disbursement of public funds.



SECTION 2.

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

- 7004-0028 For a program of loan guarantees or interest subsidies to assist homeowners with blindness or severe disabilities in making modifications to their primary residence for the purpose of improved accessibility or to allow those homeowners to live independently in the community; provided, that the secretary shall take all steps necessary to minimize the program's administrative costs; provided further, that the loan guarantees shall be available on the basis of a sliding scale that relates the homeowner's income and assets to the cost of home modifications; provided further, that interest subsidies shall be means-tested and may be for 0 per cent pursuant to income standards developed by the secretary; provided further, that the repayment of the loans may be delayed until the sale of the principal residence by the homeowner; provided further, that persons residing in a development covered by section 4 of chapter 151B of the General Laws shall not be eligible for the program unless the owner can show that the modification is an undue financial burden; provided further, that the secretary shall consult with the Massachusetts commission for the blind and the Massachusetts rehabilitation commission in developing the rules, regulations and guidelines for the program; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; and provided further, that the secretary shall submit quarterly reports to the house and senate committees on ways and means and the joint committee on housing detailing the status of the program established herein ..... \$50,000,000
- 7004-0029 For state financial assistance in the form of loans for the development of community-based housing for the mentally ill and mentally retarded; provided, that the loan program shall be administered by the department of housing and community development, hereinafter referred to in this item as the department, through contracts with the Massachusetts Development Finance Agency established in chapter 23G of

the General Laws, the Community Economic Development Assistance Corporation established in chapter 40H of the General Laws, operating agencies established pursuant to chapter 121B of the General Laws and the Massachusetts Housing Finance Agency established in chapter 708 of the acts of 1966; provided further, that those agencies may develop or finance community-based housing, or may enter into subcontracts with nonprofit organizations established pursuant to chapter 180 of the General Laws or organizations in which such nonprofit corporations have a controlling financial or managerial interest or for-profit organizations; provided, however, that preference for the subcontracts shall be given to nonprofit organizations; provided further, that the department shall consider a balanced geographic plan for such community-based housing when issuing the loans; provided further, that the department shall consider development of a balanced range of housing models by prioritizing funds for integrated housing as defined by the appropriate housing and service agencies including, but not limited to, the department of housing and community development, the Massachusetts rehabilitation commission, the department of mental health and the department of mental retardation, in consultation with relevant and interested clients, their families, advocates and other parties as necessary; provided further, that loans issued pursuant to this item shall: (1) not exceed 50 per cent of the financing of the total development costs; (2) be issued only when a contract or agreement for the use of the property for such housing provides for repayment to the commonwealth at the time of disposition of the property in an amount equal to the commonwealth's proportional contribution from the Facilities Consolidation Fund to the cost of the development through payments made by the state agency making the contract; (3) only be issued when a contract or agreement for the use of the property for the purposes of such housing provides for the recording of a deed restriction in the registry of deeds or the registry district of the land court of the county in which the real property is located, for the benefit of the departments, running with the land, that the land be used to provide community-based housing for eligible individuals as determined by the department of mental health and the department of mental retardation; provided, that the property

shall not be released from such restriction until the balance of the principal and interest for the loan has been repaid in full or until a mortgage foreclosure deed has been recorded; (4) be issued for a term not to exceed 30 years during which time repayment may be deferred by the loan issuing authority unless, at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations or grant moneys, exceed 105 per cent of cash expenditures on behalf of the project, including debt service, operating expenses and capital reserves, in which event such excess cash shall be paid to the commonwealth within 45 days of the end of the fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to the loan; provided further, that if on the date the loans become due and payable to the commonwealth an outstanding balance exists, and if, on such date, the department, in consultation with the executive office of health and human services, determines that there still exists a need for such housing and that there is continued funding available for the provision of services to such development, the department may, by agreement with the owner of the development, extend the loans for such periods, each period not to exceed 10 years, as the department shall determine; provided, however, that the project shall remain affordable housing for the duration of the loan term, including any extension thereof, as set forth in the contract or agreement entered into by the department; and provided further, that in the event the terms of repayment detailed in this item would cause a project authorized by this item to become ineligible to receive federal funds which would otherwise assist in the development of that project, the department may waive the terms of repayment which would cause the project to become ineligible; and (5) have interest rates fixed at a rate, to be determined by the department, in consultation with the state treasurer; provided further, that expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for community-based housing in existence prior to the effective date of this act; provided further, that community-based housing projects developed pursuant to this item shall not be refinanced during the term of any loan issued pursuant to this item unless the balance of the principal



and interest for such loan has been repaid in full at the time of such refinancing; provided further, that the community-based housing projects may be refinanced if the refinancing would result in a reduction of costs paid by the commonwealth; provided further, that a refinanced loan shall be due and payable on a date not later than the date on which the original loan was due and payable, except in accordance with clause (4) when necessary to effect extraordinary repairs or maintenance which shall be approved by the commissioner of mental retardation or the commissioner of mental health, as the case may be, and the department; provided further, that the loans shall be provided only for projects conforming to the provisions of this item; provided further, that the loans shall be issued in accordance with a facilities consolidation plan prepared by the secretary of health and human services, reviewed and approved by the department and filed with the secretary for administration and finance and the house and senate committees on ways and means and the joint committee on housing; provided further, that no expenditure shall be made from this item without the prior approval of the secretary for administration and finance; provided further, that the department, the department of mental health and the Community Economic Development Assistance Corporation may identify appropriate financing mechanisms and guidelines for grants or loans from this item to promote private development to produce housing, to provide for independent integrated living opportunities, to write down building and operating costs and to serve households at or below 15 per cent of area median income for the benefit of department of mental health clients; provided further, that not more than \$10,000,000 may be expended from this item for a pilot program of community-based housing loans to serve mentally ill homeless individuals in the current or former care of the department of mental health; provided further, that in implementing the pilot program, the department shall consider a balanced geographic plan when establishing community-based residences; provided further, that the housing services made available pursuant to such loans shall not be construed as a right or an entitlement for any individual or class of persons to the benefits of the pilot program; provided further, that eligibility for the pilot program shall be

established by regulations promulgated by the department; provided further, that the department shall promulgate regulations pursuant to chapter 30A of the General Laws for the implementation, administration and enforcement of this item, consistent with the facilities consolidation plan prepared by the secretary of health and human services, and after consultation with the secretary and the commissioner of the division of capital asset management and maintenance . . . . . \$40,000,000

7004-0030 For state financial assistance in the form of loans for the development and redevelopment of community-based housing for persons with disabilities who are institutionalized or at risk of being institutionalized, who are not eligible for housing developed pursuant to item 7004-0029; provided, that the loan program shall be administered by the department of housing and community development, hereinafter referred to in this item as the department, through contracts with the Massachusetts Development Finance Agency established in chapter 23G of the General Laws, the Community Economic Development Assistance Corporation established in chapter 40H of the General Laws, operating agencies established pursuant to chapter 121B of the General Laws and the Massachusetts Housing Finance Agency established in chapter 708 of the acts of 1966; provided further, that the agencies may develop or finance the community-based housing, or may enter into subcontracts with nonprofit organizations established pursuant to chapter 180 of the General Laws or organizations in which such nonprofit corporations have a controlling financial or managerial interest or for-profit organizations; provided, however, that preference for such subcontracts shall be given to nonprofit organizations; provided further, that the department shall consider a balanced geographic plan for such community-based housing when issuing the loans; provided further, that all housing developed with these funds shall be integrated housing as defined by the appropriate state housing and service agencies including, but not limited to, the department, the department of mental health, and the department of mental retardation in consultation with relevant and interested clients, their families, advocates, and other parties as necessary; provided further, that loans issued pursuant to this item shall:

(1) not exceed 50 per cent of the financing of the total development costs; (2) be issued only when a contract or agreement for the use of the property for the purposes of such housing provides for repayment to the commonwealth at the time of disposition of the property in an amount equal to the commonwealth's proportional contribution from community based housing to the cost of the development through payments made by the state agency making the contract; (3) only be issued when a contract or agreement for the use of the property for the purposes of such community-based housing provides for the recording of a deed restriction in the registry of deeds or the registry district of the land court of the county in which the real property is located, for the benefit of the departments, running with the land, that the land be used to provide community-based housing for eligible individuals as determined by the Massachusetts rehabilitation commission or other agency of the executive office of health and human services; provided further, that the property shall not be released from such restrictions until the balance of the principal and interest for the loan has been repaid in full or until a mortgage foreclosure deed has been recorded; (4) be issued for a term not to exceed 30 years during which time repayment may be deferred by the loan issuing authority unless, at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations or grant moneys, exceed 105 per cent of cash expenditures on behalf of the project, including debt service, operating expenses, and capital reserves, in which event such excess cash shall be paid to the commonwealth within 45 days of the end of the fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to the loan; provided further, that if on the date the loans become due and payable to the commonwealth an outstanding balance exists, and if on that date, the department, in consultation with the executive office of health and human services, determines that there still exists a need for such housing, the department may, by agreement with the owner of the development, extend the loans for such periods, each period not exceed 10 years, as the department shall determine; provided, however, that the project shall continue to remain affordable housing for the duration of the



loan term, including any extensions thereof, as set forth in the contract or agreement entered into by the department; and provided further, that in the event the terms of repayment detailed in this item would cause a project authorized by this item to become ineligible to receive federal funds which would otherwise assist in the development of that project, that commissioner may waive the terms of repayment which would cause the project to become ineligible; and (5) have interest rates fixed at a rate, to be determined by the department, in consultation with the state treasurer; provided further, that expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for community-based housing in existence before the effective date of this act; provided further, that community-based housing projects developed pursuant to this item shall not be refinanced during the term of any loan issued pursuant to this item unless the balance of the principal and interest for such loan is repaid in full at the time of such refinancing; provided further, that the community-based housing projects may be refinanced if the refinancing would result in a reduction of costs paid by the commonwealth; provided further, that a refinanced loan shall be due and payable not later than the date on which the original loan was due and payable, except in accordance with clause (4) of this item or when necessary to effect extraordinary repairs or maintenance which shall be approved by the commissioner of the Massachusetts rehabilitation commission or other agency of the executive office of health and human services, as appropriate, and the department; provided further, the loans shall be provided only for projects conforming to this item; provided further, that the loans shall be issued in accordance with an enhancing community-based services plan prepared by the secretary of health and human services, in consultation with the department and filed with the secretary for administration and finance and the house and senate committees on ways and means and the joint committee on housing; provided further, that no expenditure shall be made from this item without the prior approval of the secretary for administration and finance; provided further, that the department shall promulgate regulations pursuant to chapter 30A of the General Laws for

the implementation, administration and enforcement of this item, consistent with the enhancing community-based services plan prepared by the secretary of health and human services after consultation with the secretary and the commissioner of capital asset management and maintenance . . . . . \$30,000,000

*Department of Housing and Community Development.*

- 7004-0031 For the capitalization of the Affordable Housing Trust Fund, established in section 2 of chapter 121D of the General Laws . . \$220,000,000
- 7004-0032 For the purpose of state financial assistance in the form of grants or loans for the Housing Stabilization and Investment Trust Fund established in section 2 of chapter 121F of the General Laws and awarded only pursuant to the criteria established therein; provided, that not less than 25 per cent 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; provided further, that if the department of housing and community development has not been able to meet the spending authorized under the bond cap for this program, at the end of each year following 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 the United States Department of Housing and Urban Development; 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; and provided further, that not less than \$10,000,000 shall be expended to stabilize and promote reinvestment, through homeownership, in areas the department has determined to be weak markets as indicated by a high concentration of assisted rental housing or a low rate of homeownership or low median family income or low average sales prices or high levels of unpaid property taxes or vacant or abandoned buildings and, after making the finding, the department may waive the requirements of this section and said chapter 121F which are found to be inconsistent with promoting homeownership in weak markets and take other steps necessary to promote homeownership in the weak market including, but not limited

	to, reducing the length of required affordability to not less than 10 years and permitting the funded property to be purchased by a household whose income at the time of purchase does not exceed 135 per cent of the area median income, adjusted for family size, or both; provided however, that the purchaser shall own and occupy the property as his primary residence . . . . .	\$125,000,000
7004-0033	For the purpose of state financial assistance in the form of grants for projects undertaken pursuant to clause (j) of section 26 of chapter 121B of the General Laws; provided, that contracts entered into by the department of housing and community development for those projects may include, but shall not be limited to, projects providing for renovation, remodeling, reconstruction, redevelopment and hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws and for adaptations necessary for compliance with the Americans with Disabilities Act, the provision of day care facilities, learning centers and teen service centers and the adaptation of units for families and persons with disabilities; provided further, that priority shall be given to projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents; provided further, that funds may be expended from this item to make such modifications to congregate housing units as may be necessary to increase the occupancy rate of those units; provided further, that the department, in consultation with housing authorities, may establish a program to provide predictable funds to be used flexibly by housing authorities for capital improvements to extend the useful life of state-assisted public housing; provided further, that not less than 25 per cent shall be used to fund projects which preserve or 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 a capital reserve account shall be administered by the department . . .	\$500,000,000
7004-0034	For the purpose of state financial assistance in the form of grants for a 5 year demonstration program, administered by the department of housing and community development to demonstrate cost effective revitalization methods for state-aided	



family and elderly-disabled public housing that seek to reduce the need for future state modernization funding; provided further, that housing authorities with state-aided housing developments pursuant to chapter 200 of the acts of 1948, chapter 667 of the acts of 1954 or chapter 705 of the acts of 1966 shall be eligible to participate in demonstration program; provided further, that the department shall establish a 7-member advisory committee, to consist of the director of the department or his designee, 1 member selected by Citizens' Housing and Planning Association, 1 member selected by the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, 1 member selected by the Massachusetts Union of Public Housing Tenants and 3 additional members chosen by the department to provide advice and recommendations to the department regarding regulations to implement the demonstration program; provided further, that grants shall be awarded on a competitive basis; provided further, that the department may exempt a recipient of demonstration grants from the requirements of chapter 7 and chapter 121B of the General Laws upon a showing by the recipient that such exemptions are necessary to accomplish the effective revitalization of public housing and will not adversely affect public housing residents or applicants of any income who are otherwise eligible; provided further, that the department may provide to recipients of demonstration grants such additional regulatory relief as is required to further the objectives of the demonstration program; provided further, that funds shall be made available for technical assistance provided by the Community Economic Development Assistance Corporation established in chapter 40H of the General Laws or the Massachusetts Housing Partnership Fund established pursuant to section 35 of chapter 405 of the acts of 1985 to recipients of demonstration grants and for evaluation of the demonstration; provided further, that the department shall promulgate regulations for the implementation, administration and enforcement of this item within 90 days after the effective date of this act; provided, however, that the regulations shall: (i) require that housing authorities selected demonstrate innovative, replicable solutions to the management, marketing

	or capital needs of state-aided family and elderly-disabled public housing developments and contribute to the continued viability of the housing as a resource for public housing eligible residents; (ii) encourage proposals that demonstrate regional collaborations among housing authorities; and (iii) encourage proposals that propose new affordable housing units on municipally-owned land, underutilized public housing sites or other land owned by the housing authority; and provided further, that the department shall report to the house and senate committees on ways and means and the joint committee on housing on the progress of the demonstration program within 90 days after promulgation of the regulations and annually thereafter . . . . .	\$50,000,000
7004-0035	For the purpose of state financial assistance in the form of community development action grants to be awarded pursuant to section 57A of chapter 121B of the General Laws; provided, however, that notwithstanding said section 57A of said chapter 121B, any eligible city or town may designate a community development corporation organized pursuant to chapter 40F of the General Laws to act on its behalf; provided further, that not less than \$2,000,000 shall be used for projects in seriously distressed areas having a significant amount of vacant land or buildings, as defined by the department of housing and community development; and provided further, that projects funded from this item shall be consistent with the principles of smart growth, as defined by the department . . . . .	\$55,000,000
7004-0036	For the purpose of state financial assistance in the form of grants or loans for the Housing Innovations Trust Fund established in section 2 of chapter 121E of the General Laws; provided, however, that not less than 25 per cent 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 . . . . .	\$75,000,000
7004-0037	For the purpose of state financial assistance in the form of grants or loans for the Capital Improvement and Preservation Trust Fund for expiring use properties established in section 2 of chapter 121G of the General Laws . . . . .	\$100,000,000
7004-0038	For the purpose of providing financial support for developing residential housing units within neighborhood commercial areas	

including, but not limited to, those areas designated as Main street areas; provided, however, that the developments may include projects which have residential units above commercial space and shall be located in areas characterized by a predominance of commercial land uses, a high daytime or business population or a high concentration of daytime traffic and parking; provided further, that the department of housing and community development shall give priority to developments for which municipalities have adopted a housing tax increment financing plan in an urban center housing zone pursuant to section 60 of chapter 40 of the General Laws; provided, further, that \$15,000,000 shall be used to fund transit-oriented housing developments in proximity to public transit nodes; provided further, that eligible activities for transit-oriented development shall include, without limitation, planning grants, financing subsidies and environmental assessment; and provided further, that not less than 50 per cent of the beneficiaries of housing in projects assisted by this item shall be persons whose income is not more than 80 per cent of the area median income as defined by the United States Department of Housing and Urban Development ..... \$30,000,000

**SECTION 3.** Section 53A of chapter 29 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first sentence the following 2 sentences:- In addition to and without compliance with the foregoing, the state treasurer may, upon request of the governor, issue and sell refunding bonds of the commonwealth in an amount to be specified by the governor from time to time for the purpose of substituting fixed-rate bonds for variable-rate bonds or 1 form of variable-rate bonds for another. The proceeds of any refunding bonds authorized by this section may also be used to purchase bonds in lieu of paying such bonds at maturity or redemption, through a tender offer or otherwise, whereupon the state treasurer may declare the purchased bonds to be paid in full.

**SECTION 4.** Subsection (b) of section 6I of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) There shall be a Massachusetts low-income housing tax credit. The department may authorize annually under this section together with section 31H of chapter 63 the total sum of: (i) \$10,000,000; (ii) unused Massachusetts low-income housing tax credits, if any, for the preceding calendar years; and (iii) Massachusetts low-income housing tax credits returned to the department by a qualified Massachusetts project.



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## Chap. 119

**SECTION 5.** Subsection (b) of section 31H of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) There shall be a Massachusetts low-income housing tax credit. The department may authorize annually under this section together with section 6I of chapter 62 the total sum of: (i) \$10,000,000; (ii) unused Massachusetts low-income housing tax credits, if any, for the preceding calendar years; and (iii) any Massachusetts low-income housing tax credits returned to the department by a qualified Massachusetts project.

**SECTION 6.** The General Laws are hereby amended by inserting after chapter 121D the following 3 chapters:-

### CHAPTER 121E

#### *HOUSING INNOVATIONS TRUST FUND*

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

“Alternative forms of rental and ownership housing”, shall include, but not be limited to: single room occupancy units; limited equity cooperative housing; transitional housing for the homeless; battered women’s shelters; mutual housing; housing acquired by nonprofit entities pursuant to Title II of the National Emergency Low Income Housing Preservation Act of 1987 and Title VI of the National Affordable Housing Act of 1990; employer assisted housing; lease-to-purchase housing; housing produced pursuant to a court-approved receivership; innovative forms of housing which seek to mitigate the adverse impact on housing affordability in communities with high concentrations of college or university students; joint projects between municipalities or housing development agencies and institutions of higher education designed to produce or preserve affordable units within those areas; and other innovative forms of housing.

“Area median income”, income as determined by the United States Department of Housing and Urban Development.

“Authorities”, the Massachusetts Development Finance Agency established in chapter 23G, community development corporations established pursuant to chapter 40F, the Community Economic Development Assistance Corporation established in chapter 40H, operating agencies established pursuant to chapter 121B, the Massachusetts Housing Finance Agency, established in chapter 708 of the acts of 1966 and nonprofit agencies certified by the United States Department of Housing and Urban Development as community housing development organizations.

“Department”, the department of housing and community development.

“Fund”, the Housing Innovations Trust Fund established in section 2.

Section 2. (a) There shall be within the department a separate fund to be known as the Housing Innovations Trust Fund. The department shall administer the fund for the purpose of making grants and loans to public or quasi-public entities to facilitate the production and retention of alternative forms of rental and ownership housing; provided, however, that

25 per cent of the beneficiaries of the fund shall be persons whose income shall not exceed 30 per cent of the area median income and 50 per cent of the beneficiaries of the fund shall be persons whose income not exceed 80 per cent of the area median income. The department shall give preference to those projects that provide transitional or permanent housing for homeless individuals and families and disabled persons. The fund shall be an expendable trust fund and shall not be subject to appropriation.

(b) There shall be credited to the fund revenue from appropriations or other monies authorized by the general court and specifically designated for the fund and any gifts, grants, private contributions, repayment of loans, fees and charges imposed relative to the making of loans, grants, subsidies, credit enhancements and other financial assistance, investment income earned on the fund's assets and any other sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(c) The department shall provide assistance from the fund using only the criteria established in this chapter for projects owned or sponsored by authorities including but not limited to, projects that involve complex multiple-source financing or the preservation of existing affordable housing; provided, however, that no assistance shall be authorized unless the sponsor thereof is current on all existing mortgage obligations with the commonwealth or any political subdivision thereof. The department shall enter into agreements with the Community Economic Development Assistance Corporation to provide assistance from the fund for projects owned or sponsored by nonprofit organizations.

Section 3. (a) The fund shall finance low and no interest loans, grants, subsidies, credit enhancements and other financial assistance for alternative forms of rental and ownership housing; provided, however, that assistance shall be the minimum amount necessary to make a project feasible. Activities eligible for assistance from the fund shall include, but not be limited to: (1) capital grants and deferred payment loans for new construction, rehabilitation or acquisition of alternative forms of rental and ownership housing units; (2) capital grants and deferred payment loans for new construction, rehabilitation or acquisition of alternative forms of rental and ownership housing for homeless families and individuals; (3) mortgage insurance guarantees and other credit enhancements for alternative forms of rental and ownership housing; (4) projects making alternative forms of rental and ownership housing more accessible to senior citizens and persons with disabilities; (5) matching funds for municipalities that sponsor alternative forms of rental and ownership housing initiatives; and (6) matching funds for employer-based programs to assist employees in meeting their rental and homeownership housing costs.

(b) A loan program established pursuant to subsection (a) shall be administered by the department through contracts with authorities. The authorities may, pursuant to the terms and conditions of contracts with the department, directly issue loans for the purposes of the program or may enter into subcontracts with nonprofit organizations established pursuant to chapter 180 for those purposes. Loans issued directly or indirectly by those organizations shall be: (1) subject to the review and approval of the department; (2) limited to not more than 50 per cent of the financing of the total development costs; provided, however, that this

limitation shall not apply to loans provided for the establishment of battered women's shelters which loans may be provided in amounts up to 80 per cent of the financing of total development costs; and provided further, that those loans shall not exceed \$2,500,000 per project; (3) issued only if a contract or agreement for the use of the property for housing purposes provides for the recording of a restriction in the registry of deeds or the registry district of the land court in the county in which the affected real property is located, for the benefit of the department, running with the land, that the land be used for providing alternative forms of rental and ownership housing; provided further, that the property shall not be released from the restriction until the balance of the principal and interest for the loan shall be repaid in full or until a mortgage foreclosure deed shall be recorded; (4) issued for a term of up to 30 years during which time repayment may be deferred by the loan issuing authority unless, at the end of a fiscal year, cash collections from all sources in connection with the housing, except for contributions, donations or grant moneys, exceed 105 per cent of cash expenditures on behalf of the housing, including debt service, operating expenses, operating reserves and capital reserves; provided further, that any excess cash shall be paid to the commonwealth within 45 days after the end of the fiscal year, payable first to interest due under this section and then to principal advanced pursuant to the loan; provided further, that if on the date the loans become due and payable to the commonwealth an outstanding balance exists, the loans may be extended for periods of not more than 10 years, as the department determines, provided that the project continues to remain affordable housing as set forth in the contract or agreement entered into for the duration of the project by the department; and provided further, that in the event that the terms of repayment detailed in this section would cause a project authorized by this chapter to become ineligible to receive federal funds which would otherwise assist in the development of that project, the department may waive the terms of repayment which would cause the project to become ineligible; (5) subject interest rates as fixed by the department, in consultation with the state treasurer; (6) issued once the department considers a balanced geographic plan for any alternative forms of housing; and (7) for projects developed pursuant to this chapter not refinanced during the term of a loan issued pursuant to this chapter unless the balance of the principal and interest for the prior loan is repaid in full at the time of the refinancing; provided, however, that housing projects may be refinanced if the refinancing would result in a reduction of costs paid by the commonwealth; provided further, that a refinanced loan shall be due and payable not later than the date on which the prior loan was due and payable, except in accordance with clause (4) or when necessary to effect extraordinary repairs or maintenance to be approved by the department.

Section 4. For 120 days after the expiration of affordability restrictions on housing assisted under this chapter, the department or its assignee, who is a qualified developer selected pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase that property at its current appraised value, less any remaining obligations of the owner upon the expiration of the affordability restrictions. The department or its assignee may purchase or acquire the housing only for the purposes of preserving or



providing affordable housing. Failure to exercise the purchase option within the 120-day period shall constitute a waiver of the purchase option by the department or its assignee. Two impartial appraisers shall determine, within 60 days after the expiration of the affordability restrictions, the current appraised value in accordance with recognized professional standards. Two professionals in the field of multi-unit residential housing shall each select an appraiser. The owner and the department, respectively, shall each designate a professional within 30 days after the expiration of the affordability restrictions. If there is a difference in the valuations, the valuations shall be added together and divided by 2 to determine the current appraised value of the property. No sale, transfer or other disposition of the property shall be consummated until either the purchase option period shall have expired or the owner shall have been notified, in writing, by the department or its assignee that the option will not be exercised. The option shall 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 the address specified in the notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the purchase option has been assigned to a qualified developer selected pursuant to this section, the written notice shall state the name and address of the developer and the terms and conditions of the assignment. Before any sale or transfer or other disposition of the housing where the department has not previously exercised an option to purchase, an owner shall offer the department or its assignee, who shall be a qualified developer selected pursuant to this section, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department or its assignee written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold the first refusal option for the first 120 days after receipt of the owner's written notice of intent to transfer the property. Failure to respond to the written notice of intent to sell, transfer or otherwise dispose of the property within the 120-day period after the receipt thereof shall constitute a waiver of the first refusal option by the department. No sale, transfer or other disposition of the property 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 its assignee that the option will not be exercised. The option shall 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 the address specified in the notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the first refusal option has been assigned to a qualified developer selected pursuant to this section, the written notice shall state the name and address of the developer and the terms and conditions of the assignment. An affidavit before a notary public that the notice of intent was mailed on behalf of an owner shall conclusively establish the manner and time of the giving of notice the affidavit and notice that the option will not be exercised shall be recorded in the registry of deeds or the registry district of the land court

of the county in which the affected real property is located. Each notice of intention, notice of exercise of the purchase option or first refusal option and notice that the purchase option or first refusal option will not be exercised shall contain the name of the record owner of the property and a reasonable description of the premises to be sold or converted and each affidavit, signed before a notary public, shall have attached to it a copy of the notice of intention to which it relates. The notices of intention shall be mailed to the relevant parties, in the care of the keeper of records for the party in question. Upon notifying the owner in writing of its intention to exercise its purchase option or first refusal option during the 120-day period, the department or its assignee shall have an additional 120 days, beginning on the date the purchase option period or first refusal option period expires, to purchase the property. Those time periods may be extended by mutual agreement between the department or its assignee and the owner of the property. Any extension agreed upon shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Within a reasonable time after requesting an extension, the owner shall make available to the department or its assignee any information that is reasonably necessary for the department to exercise its options.

Section 5. The department shall promulgate regulations for the implementation, administration and enforcement of this chapter.

Section 6. The department shall annually file a report with the house and senate committees on ways and means, the joint committee on housing and the joint committee on bonding, capital expenditures and state assets detailing all expenditures from the fund including, but not limited to, the recipient of the funds, the cost of administration and the number of units constructed, acquired and rehabilitated.

## **CHAPTER 121F**

### ***HOUSING STABILIZATION AND INVESTMENT TRUST FUND***

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

“Area median income”, income as determined, from time to time, by the United States Department of Housing and Urban Development.

“Department”, the department of housing and community development.

“Fund”, the Housing Stabilization and Investment Trust Fund established in section

2.

Section 2. (a) There shall be within the department a separate fund to be known as the Housing Stabilization and Investment Trust Fund. The department shall administer the fund and shall ensure that funds are distributed among urban, suburban and rural areas with a particular emphasis on the local and regional needs 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. The 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 reinvestment; provided, further, that funds from this item may be expended for the purpose of energy audits and housing modifications to achieve energy efficiency and conservation. The fund shall be an expendable trust fund and shall not be subject to appropriation.

(b) There shall be credited to the fund, revenue from appropriations or other monies authorized by the general court and specifically designated for the fund and any gifts, grants, private contributions, repayment of loans, fees and charges imposed relative to the making of loans, grants, subsidies, credit enhancements and other financial assistance, investment income earned on the fund's assets and any other sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(c) The department shall provide assistance from the fund using only the criteria established in this chapter for projects owned or sponsored by nonprofit or for-profit organizations including, but not limited to, projects that involve complex multiple-source financing or the preservation of existing affordable housing; provided, however, that no assistance shall be authorized unless the sponsor thereof is current on all existing mortgage obligations with the commonwealth or any political subdivision thereof. The department shall enter into agreements with Massachusetts Housing Partnership Fund established in section 35 of chapter 405 of the acts of 1985 or the Community Economic Development Assistance Corporation established in chapter 40H to provide assistance from the fund for projects owned or sponsored by nonprofit organizations.

Section 3. (a) The fund shall finance low and no interest loans, grants, subsidies, credit enhancements and other financial assistance for alternative forms of rental and ownership housing; provided, however, that assistance shall be the minimum amount necessary to make a project feasible. The fund shall be used for: (1) 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; provided, however, that the program may include activities necessary to make essential repairs and to pay operating expenses necessary to maintain habitability of the housing units in order to prevent abandonment and deterioration of the housing in primarily low and moderate income neighborhoods; provided further, that the loans may be administered by the department through contracts with the Community Economic Development Assistance Corporation established in chapter 40H and through contracts with the Massachusetts Housing Partnership Fund established in section 35 of chapter 405 of the acts of 1985; and provided further, that recipients may enter into subcontracts to administer the contracts with other for-profit or nonprofit organizations; and (2) loans to nonprofit developers for the acquisition of property to provide or preserve affordable housing; provided, however, that loan program may be administered by the department through contracts with the Community Economic Development Assistance Corporation; provided further, that the program may include acquisition, financing and other holding costs, interim management costs and operating costs and may also be used by the Community Economic Development Assistance Corporation to secure, collateralize or re-



serve against other financing obtained by the Community Economic Development Assistance Corporation to support those costs; provided further, that not less than 50 per cent of the beneficiaries of the housing shall be persons whose income is not more than 80 per cent of the area median income and not less than 25 per cent of the beneficiaries of the housing shall be persons whose income is not more than 30 per cent of that area median income.

(b) Activities eligible for assistance from the fund shall include, but not be limited to: (1) projects to develop and support affordable housing developments and homeownership affordability, through the acquisition, preservation and rehabilitation of affordable housing; (2) 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 reinvestment; (3) 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 the rental assistance is expiring or which have received other project-based federal or state subsidies which are terminating or have terminated; provided, however, that 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; provided further, that the department, in consultation with nonprofit organizations, the Community Economic Development Assistance Corporation, the Massachusetts Housing Finance Agency 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; provided further, that funding priority shall be based on at-risk criteria to be determined by the department and set forth in regulations promulgated by the department; (4) 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 or sections 6 to 9, inclusive, of chapter 143 and the regulations promulgated thereunder or which have been taken by the city or town for taxes; and provided further, that 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 the demolition is being undertaken; (5) to support the rehabilitation of owner-occupied 1 to 4-family dwellings and the acquisition and rehabilitation of those properties by persons of low or moderate income; provided, however, that the program may include, but shall not be limited to, direct loans, loan guarantees and loan loss reserves; provided further, that the objective of the program shall include the following: (a) projects shall rely, to the greatest extent possible, on bank fi-

nancing and other taxable financing to support the costs of such acquisition and rehabilitation; (b) 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; (c) expediting and simplifying the process by which home buyers may obtain financial and technical assistance for acquisitions and rehabilitation; and (d) 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; (6) for deferred payment second mortgage loans to support the acquisition and rehabilitation or new construction of small multifamily rental properties pursuant to the Permanent PLUS Program to be administered by the department through contracts with the Massachusetts Housing Partnership Fund; provided, however, that the Massachusetts Housing Partnership Fund shall enter into agreements to ensure that: (i) at least 20 per cent of the units shall be affordable to persons whose income is less than 50 per cent of the area median income; (ii) 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 (iii) at least 50 per cent of the units are affordable to persons whose income is less than 80 per cent of the area median income; and (7) homeownership opportunity program in item 3322-8880 of section 2 of chapter 110 of the acts of 1993.

(c) Assistance provided through the 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 the 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.

(d) Loans pursuant to this chapter may be provided to an 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. The recipients may enter into subcontracts to carry out the purposes of the contract with other for-profit or nonprofit 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. The 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 not more than 80 per cent of the area median income for the federal housing programs and that thereafter the 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 area median income.

Section 4. For 120 days after the expiration of affordability restrictions on housing assisted under this section, the department or its assignee, who is a qualified developer selected pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase that property at its current appraised value, less any remaining obligations of the owner upon the expiration of the affordability restrictions. The department or its assignee may purchase or acquire the housing only for the purposes of preserving or providing affordable housing. Failure to exercise the purchase option within the 120-day period shall constitute a waiver of the purchase option by the department or its assignee. Two impartial appraisers shall determine, within 60 days after the expiration of the affordability restrictions, the current appraised value in accordance with recognized professional standards. Two professionals in the field of multi-unit residential housing shall each select an appraiser. The owner and the department, respectively, shall each designate a professional within 30 days after the expiration of the affordability restrictions. If there is a difference in the valuations, the valuations shall be added together and divided by 2 to determine the current appraised value of the property. No sale, transfer or other disposition of the property shall be consummated until either the purchase option period shall have expired or the owner shall have been notified, in writing, by the department or its assignee that the option will not be exercised. The option shall 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 the address specified in the notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the purchase option has been assigned to a qualified developer selected pursuant to this section, the written notice shall state the name and address of the developer and the terms and conditions of the assignment. Before any sale or transfer or other disposition of the housing where the department has not previously exercised an option to purchase, an owner shall offer the department or its assignee, who shall be a qualified developer selected pursuant to this section, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department or its assignee written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold such the refusal option for the first 120 days after receipt of the owner's written notice of intent to transfer the property. Failure to respond to the written notice of intent to sell, transfer or otherwise dispose of the property within the 120-day period after the receipt thereof shall constitute a waiver of first refusal option by the department. No sale, transfer or other disposition of the property 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 its assignee that the option will not be exercised. The option shall 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 the address specified in the notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the first refusal option has been assigned to a qualified developer selected pursuant to this section, the written notice shall state the name and address of the developer and the terms and conditions of the assignment. An affidavit before a notary public that the notice of intent was mailed on behalf of the owner shall conclusively establish the manner and time of the giving of notice the affidavit and notice that the option shall not be exercised shall be recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Each notice of intention, notice of exercise of the purchase option or first refusal option and notice that the purchase option or first refusal option shall not be exercised shall contain the name of the record owner of the property and as reasonable description of the premises to be sold or converted and each affidavit, signed before a notary public, shall have attached to it a copy of the notice of intention to which it relates. The notices of intention shall be mailed to the relevant parties in the care of the keeper of records for the party in question. Upon notifying the owner in writing of its intention to exercise its purchase option or first refusal option during the 120-day period, the department or its assignee shall have an additional 120 days, beginning on the date the purchase option period or first refusal option period expires, to purchase the property. Those time periods may be extended by mutual agreement between the department or its assignee and the owner of the property. Any extension agreed upon shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Within a reasonable time after requesting an extension, the owner shall make available to the department or its assignee any information that is reasonably necessary for the department to exercise its options.

Section 5. The department shall promulgate regulations for the implementation, administration and enforcement of this chapter including, but not limited to, regulations relative to grants to cities and towns for the demolition of certain vacant and abandoned buildings and procedures for neighborhood revitalization plans.

Section 6. The department shall annually file a report with the house and senate committees on ways and means, the joint committee on housing and the joint committee on bonding, capital expenditures and state assets detailing all expenditures from the fund including, but not limited to, the recipient of the funds, the cost of administration and the number of units constructed, acquired and rehabilitated.

## **CHAPTER 121G**

### ***CAPITAL IMPROVEMENT AND PRESERVATION TRUST FUND***

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

“Area median income”, income as determined by the United States Department of Housing and Urban Development.

“Department”, the department of housing and community development.

“Fund”, the Capital Improvement and Preservation Trust Fund established in section

2.

Section 2. (a) There shall be within the department a separate fund to be known as the Capital Improvement and Preservation Trust Fund. The department shall administer the fund for the purpose of preserving and improving existing privately-owned, state or federally-assisted housing. Property eligible for assistance shall include housing where the prepayment or payment of a state or federally-assisted mortgage or the expiration of federal or state 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. Preference for the loans or grants from the fund shall be given to nonprofit organizations and housing authorities seeking to purchase eligible property. The fund shall be an expendable trust fund and shall not be subject to appropriation.

(b) There shall be credited to the fund, revenue from appropriations or other monies authorized by the general court and specifically designated for the fund and any gifts, grants, private contributions, repayment of loans, fees and charges imposed relative to the making of loans or grants, subsidies, credit enhancements and other financial assistance, investment income earned on the fund's assets and any other sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(c) The department shall provide assistance from the fund using only the criteria established in this chapter for projects owned or sponsored by nonprofit or for-profit organizations including, but not limited to, projects that involve complex multiple-source financing or the preservation of existing affordable housing; provided, however, that no assistance shall be authorized unless the sponsor thereof is current on all existing mortgage obligations with the commonwealth or any political subdivision thereof. The department shall enter into agreements with the Community Economic Development Assistance Corporation established in chapter 40H to provide assistance from the fund for projects owned or sponsored by nonprofit organizations.

Section 3. The department, in consultation with nonprofit organizations, the Community Economic Development Assistance Corporation established in chapter 40H, the Massachusetts Housing Finance Agency established in chapter 708 of the acts of 1966 and the Massachusetts Housing Partnership Fund established in section 35 of chapter 405 of the acts of 1985 shall identify those projects at greatest risk of prepayment or nonrenewal of rental assistance and shall grant preference in allocating funds pursuant to this chapter to those projects. The department shall enter into agreements to ensure that not less than 50 per cent of the units in such housing shall be occupied and affordable to persons of income of 80 per cent or less of the area median income and that not less than 10 per cent of such affordable units is available and affordable to households with income of 50 per cent or less

of the area median income or such greater percentage of units as required by the Massachusetts Housing Finance Agency or the United States Department of Housing and Urban Development regulations. The department may enter into subcontracts with community development corporations, for-profit organizations or nonprofit organizations to carry out the purposes of the grants and loans and shall enter into contracts with the Community Economic Development Assistance Corporation, the Massachusetts Housing Finance agency and the Massachusetts Housing Partnership Fund. A portion of the funds may be allocated in the form of predevelopment grants or loans from the Community Economic Development Assistance Corporation and the Massachusetts Housing Partnership Fund to nonprofit purchasers of the housing. The housing shall remain affordable for not less than 40 years or for such longer period, based upon the useful life of the housing as determined by the department, as may be specified in the applicable recorded restriction at the registry of deeds or the registry district of the land court of the county in which the affected real property is located.

Section 4. The department shall promulgate regulations for the implementation, administration and enforcement of this chapter.

Section 5. The department shall annually file a report with the house and senate committees on ways and means, the joint committee on housing and the joint committee on bonding, capital expenditures and state assets detailing all expenditures from the fund, including, but not limited to, the recipient of the funds, the cost of administration, and the number of units constructed, acquired and rehabilitated.

**SECTION 7.** The second sentence of subsection (a) of section 11 of chapter 27 of the acts of 2007 is hereby amended by adding the following words:- or unless he determines, in his sole discretion, that doing so is advisable to substitute fixed-rate bonds for variable-rate bonds or 1 form of variable-rate bonds for another.

**SECTION 8.** The second sentence of subsection (c) of said section 11 of chapter 27 is hereby amended by adding the following words:- , if any.

**SECTION 9.** Notwithstanding any general or special law to the contrary, the secretary of housing and economic development and the secretary for administration and finance shall jointly submit a report on the progress of all projects and expenditures related to the funds available in this act or any outstanding authorizations from prior authorization act for housing projects, and undertaken by the executive office of housing and economic development or any of its constituent agencies to the house and senate committees on ways and means, the joint committee on bonding, capital expenditures and state assets and the joint committee on housing. This report shall include, but not be limited to: the address, the nature of the work and scope of work of each project funded in this act, the total amount allocated for each project broken down by fiscal year in which the allocation occurred, the total estimated cost of each project, the amount expended for the planning and design of each project up to the time the report is filed, the amount expended on construction of each project up to the time the report is filed, the total amount currently expended on each project, a schedule of life cycle standards for each completed project, the original estimated completion



date of each project, the current anticipated completion date of each project and, if the project has been de-authorized, the reason for and date of de-authorization. The information required in this report shall be current as of 30 days before the submission of the report and the report shall be submitted bi-annually for 6 years after the effective date of this act.

**SECTION 10.** Notwithstanding any general or special law to the contrary, to meet the expenditures necessary in carrying out section 2, the state treasurer shall, upon receipt of a request by 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, \$1,275,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Housing Production, Preservation, Modification and Neighborhood Development Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provision of this act, be general obligations of the commonwealth. An amount not to exceed 2 per cent of the 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 the department of housing and community development shall file an annual spending plan with the fiscal affairs division, the house and senate committees on ways and means, the joint committee on bonding, capital expenditures and states assets and the joint committee on housing which details, by subsidiary, all personnel costs and any administrative costs charged to expenditures made pursuant to this act.

**SECTION 11.** Notwithstanding any general or special law to the contrary, within 120 days after the expiration of affordability restrictions on housing assisted under items 7004-0029 and 7004-0030 of section 2, the department of housing and community development or its assignee, who is a qualified developer selected pursuant to the terms of said items 7004-0029 and 7004-0030 of said section 2 under the guidelines of the department, shall have an option to purchase any such housing at its current appraised value reduced by any remaining obligation of the owner upon the expiration of the affordability restrictions. The department or its assignee may purchase or acquire such housing only for the purposes of preserving or providing affordable housing. The department or its assignee shall hold such purchase option for the first 120 days after the expiration of the affordability restrictions. Failure to exercise the purchase option within 120 days after the expiration of the affordability restriction shall constitute a waiver of the purchase option by the department or its assignee. Two impartial appraisers shall determine, within 60 days after the expiration of the affordability restrictions, the current appraised value in accordance with recognized professional standards. Two professionals in the field of multi-unit residential housing shall each select an appraiser. The owner and the department, respectively, shall each designate

a professional within 30 days after the expiration of these affordability restrictions. If there is a difference in the valuations, the valuations shall be added together and divided by 2 to determine the current appraised value of the property. No sale, transfer or other disposition of the property shall be consummated until either the purchase option period shall have expired or the owner shall have been notified, in writing, by the department or its assignee that the option will not be exercised. The option shall 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 address specified in the notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the purchase option has been assigned to a qualified developer selected pursuant to said items 7004-0029 and 7004-0030 of section 2, the written notice shall state the name and address of the developer and the terms and conditions of the assignment. Before any sale or transfer or other disposition of the housing where the department has not previously exercised an option to purchase, an owner shall offer the department or its assignee, who shall be a qualified developer selected pursuant to this section, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department or its assignee written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold the first refusal option for the first 120 days after receipt of the owner's written notice of intent to transfer the property. Failure to respond to the written notice of intent to sell, transfer or otherwise dispose of the property within the 120-day period shall constitute a waiver of the right of first refusal by the department. No sale, transfer or other disposition of the property shall be consummated until either this first refusal option period shall have expired or the owner shall have been notified in writing by the department or its assignee that the option will not be exercised. The option shall 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 the address specified in the notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the first refusal option has been assigned to a qualified developer selected pursuant to said items 7004-0029 and 7004-0030 of section 2, the written notice shall state the name and address of the developer and the terms and conditions of the assignment. An affidavit before a notary public that the notice of intent was mailed on behalf of an owner shall conclusively establish the manner and time of the giving of notice the affidavit and notice that the option shall not be exercised shall be recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Each notice of intention, notice of exercise of the purchase option or first refusal option and notice that the purchase option or first refusal option shall not be exercised shall contain the name of the record owner of the property and a reasonable description of the premises to be sold or converted of and each affidavit signed before a notary public, shall have attached to

it a copy of the notice of intention to which it relates. The notices of intention shall be mailed to the relevant parties, in the care of the keeper of records for the party in question. Upon notifying the owner in writing of its intention to exercise its purchase option or first refusal option during the 120-day period, the department or its assignee shall have an additional 120 days, beginning on the date the purchase option period or first refusal option period expires, to purchase the property. Those time periods may be extended by mutual agreement between the department or its assignee and the owner of the property. Any extension agreed upon shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Within a reasonable time after requesting an extension, the owner shall make available to the department or its assignee any information that is reasonably necessary for the department to exercise its options.

**SECTION 12.** Notwithstanding any general or special law to the contrary, not later than July 1, 2008, and annually thereafter, the director of housing and community development shall submit to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on housing and the joint committee on bonding, capital expenditures and state assets a capital plan for fiscal years 2009 to 2013, inclusive, for capital funds authorized in section 2.

**SECTION 13.** Notwithstanding any general or special law to the contrary, the unexpended and unencumbered balances of the bond-funded authorizations in the following accounts shall cease to be available for expenditure 90 days after the effective date of this act: 3722-8865, 3722-8871, 3722-8872, 3722-8873, 3722-8875, 3722-8891, 3722-8892, 3722-8896, 4000-7998, 4000-8200, 4000-8201, 4000-8202, 7004-0021, 7004-0022, 7004-6666, 7004-7011, 7004-7012, 7004-7013, 7004-7014, 7004-7015, 7004-7016, 7004-7018, 7004-8984, 7004-8985.

**SECTION 14.** Notwithstanding any general or special law to the contrary, a private entity engaged in a construction, development, renovation, remodeling, reconstruction, rehabilitation or redevelopment project receiving funds pursuant to this act shall properly classify individuals employed on the project and shall comply with all laws concerning workers' compensation insurance coverage, unemployment insurance, social security taxes and income taxes with respect to all such employees. All construction contractors engaged by an entity on any such project shall furnish documentation to the appointing authority showing that all employees employed on the project have hospitalization and medical benefits that meet the minimum requirements of the connector board established in chapter 176Q of the General Laws.

Approved May 29, 2008



**Chapter 120. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2008 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 purposes, which are to make forthwith supplemental appropriations for fiscal year 2008 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 2008, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2008. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**SECTION 2.**

**JUDICIARY**

*Committee for Public Counsel Services*

0321-1510 .....	\$12,064,277
0321-1520 .....	\$5,615,420

*Trial Court*

0330-0337 .....	\$8,187,426
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**SHERIFFS**

8910-0000 .....	\$10,124,000
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*Essex Sheriff's Department*

8910-0619 .....	\$3,500,000
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**OFFICE OF THE STATE COMPTROLLER**

*Office of the State Comptroller*

1599-3384 .....	\$1,270,138
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**Chap. 120**

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**  
*Human Resources Division*

1750-0119 ..... \$55,000

**EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS**  
*Department of Conservation and Recreation*

2820-2000 ..... \$693,776  
2820-9005 ..... \$321,988

**DEPARTMENT OF EARLY EDUCATION AND CARE**  
*Department of Early Education and Care*

3000-4050 ..... \$13,017,346

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**  
*Department of Public Health*

4590-0915 ..... \$1,851,551

*Department of Transitional Assistance*

4403-2000 ..... \$12,442,902

**EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS**  
*Highway Department*

6030-7201 ..... \$9,634,460

**EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY**  
*Department of State Police*

8100-0007 ..... \$1,966,818

*Department of Correction*

8900-0010 ..... \$472,500

**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 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, 2008. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**SHERIFFS**

*Franklin Sheriff's Department*

8910-0188 For the Franklin sheriff's department; provided, however, that the department may expend for the operation of the department an amount not to exceed \$2,345,000 from revenues received from federal inmate reimbursements; 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 ..... \$1,045,000

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

*Department of Public Health*

4513-1012 For the department of public health; provided, however, that the department may expend for the purpose of increasing the caseload of the Women, Infants, and Children's Nutrition Program an amount not to exceed \$23,555,500 in revenues received from federal cost-containment initiatives including, but not limited to, infant formula rebates; 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 ..... \$1,555,500

**SECTION 2B.** To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriation act and other appropriation acts for fiscal year 2008, to provide for certain unanticipated intragovernmental chargeback authorizations, to provide for an alteration of purpose for current intragovernmental chargeback authorizations and to meet certain requirements of law, the sums set forth in this section are hereby authorized from the Intragovernmental Service Fund for the several purposes specified in this section or in the appropriation acts, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2008. These sums shall be in addition to any amounts previously authorized and made available for the purposes of those items.



**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**  
*Massachusetts Commission for the Deaf and Hard of Hearing*

4125-0122 ..... \$25,000

**EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS**  
*Highway Department*

6030-7501 ..... \$500,000

**SECTION 3.** Section 52 of chapter 61 of the acts of 2007 is hereby amended by striking out the figure “\$343,242,800” and inserting in place thereof the following figure:- \$354,742,800.

**SECTION 4.** Section 55 of said chapter 61 is hereby amended by striking out the figure “\$789,650,000” and inserting in place thereof the following figure:- \$976,954,249.

**SECTION 5.** Said section 55 of said chapter 61 is hereby further amended by striking out the figure “\$33,900,000” and inserting in place thereof the following figure:- \$49,600,000.

Approved May 30, 2008

**Chapter 121. AN ACT EXEMPTING TIMOTHY R. GRABARZ AND THOMAS E. CADY FROM THE MAXIMUM AGE REQUIREMENT FOR APPOINTMENT AS A POLICE OFFICER IN THE TOWN OF RAYNHAM.**

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

**SECTION 1.** Notwithstanding section 58 of chapter 31 of the General Laws or any other general or special law to the contrary, Timothy R. Grabarz of the town of Raynham and Thomas E. Cady of the town of Raynham shall be eligible to have their names certified for original appointment to the position of police officer in the town of Raynham, notwithstanding their having reached the age of 32 before taking the civil service examination in connection with that appointment. Timothy R. Grabarz and Thomas E. Cady shall be eligible for appointment to the position of police officer in the town of Raynham provided that they meet all other civil service requirements.

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

Approved June 4, 2008

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**Chapter 122. AN ACT FURTHER REGULATING THE GROUP INSURANCE PROGRAM OF THE TOWN OF BOXBOROUGH.**

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

**SECTION 1.** If, pursuant to paragraph (d) of section 2 of chapter 32B of the General Laws, the board of selectmen of the town of Boxborough authorizes compensated elected town officials whose duties require less than 20 hours work per week, as the board of selectmen may determine, to participate in the town's group insurance program, such officials shall pay 100 per cent of the premiums.

**SECTION 2.** Pursuant to section 14 of chapter 32B of the General Laws, the board of selectmen shall adopt such rules and regulations as may be necessary for the administration of the insurance coverage described in section 1.

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

Approved June 4, 2008

**Chapter 123. AN ACT AUTHORIZING THE CITY OF METHUEN TO LEASE A PORTION OF A CERTAIN BUILDING TO THE METHUEN MUNICIPAL EMPLOYEES FEDERAL CREDIT UNION.**

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

**SECTION 1.** Notwithstanding section 3 of chapter 40 or section 16 of chapter 30B of the General Laws or any other general or special law or rule, regulation or ordinance to the contrary, the city of Methuen, acting by and through the mayor and subject to the approval of the city council, may lease for not more than 50 years, on such terms as the mayor may determine, a portion of the Quinn Building located in the city, to the Methuen Municipal Employees Federal Credit Union.

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

Approved June 4, 2008

**Chapter 124. AN ACT ESTABLISHING THE NORTH CARVER WATER DISTRICT.**

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

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

"Bonds" or "bond", general obligation bonds, notes or other obligations or evidences

of indebtedness that the town has authorized or issued to finance the acquisition, of and improvements to, any water works system that is or shall be operated and managed by the district prior to the effective date of this act, or that the town authorizes and issues after said effective date, upon a two-thirds vote of the commission, with the approval of a two-thirds vote of the town, to pay for capital costs of the district, including land acquisition within the district service area, which shall be issued for a term not to exceed 40 years, and which shall otherwise be issued in accordance with the provisions of chapter 44 of the General Laws. A bond issued in accordance with this act shall be arranged so that the amounts payable over a term of years for principal and interest combined shall be as equal as practicable in the opinion of the officers authorized to issue the bonds or, in the alternative, in accordance with a schedule that provides a more rapid amortization of the principal. Notwithstanding any general or special law to the contrary, the district may issue a bond only if the bond must be issued to the United States Rural Development Administration or to any other similar federal or state agency to qualify for federal or state grants, loans or any other financial assistance with respect to the development of the district's facilities. A bond issued by the district shall not be included in any debt or other limitation pursuant to any general or special law. A bond issued in accordance with this act not paid by the district as it becomes due and payable shall constitute a pledge of the full faith and credit of the town and a debt of the town within the meaning of section 23 of chapter 59 of the General Laws. A bond issued pursuant to this act shall be signed by a majority of the commission, and acknowledged by the signatures of the town treasurer and a majority of the selectmen of the town.

“Capital costs”, an extension, improvement or enlargement of the water works system of the district or any other project of the district financed under this act; all or any part of the cost of acquisition, construction, reconstruction, alteration or remodeling of such works including, but not limited to, the costs of labor, materials, machinery, equipment, and supplies, demolition removal or relocation of any public utilities facilities, or advance training of operating personnel; the acquisition of interests in land, structures and rights of any kind in real and personal property; financing charges and expenses; interest prior to, during and for a period not to exceed 6 months after completion of such work; reserves for debt service and other capital and current expenses; costs of architectural, engineering, financial, legal or consulting services, including costs of plans, specifications, appraisals, surveys, inspections or financial and feasibility studies; administrative and operational expenses incurred prior to the commencement of and during such work; and other expenses of completing and commencing operation of such work, working capital, and other necessary or incidental expenses related to the acquisition, construction, financing and placing in operation of such work.

“Commission”, the members of the North Carver water district or, if the commission shall terminate, the succeeding person, board, body or commission to whom the powers given by this act shall have been transferred by law.

“Current expenses”, the district's current expenses, whether or not annually recurring, for maintaining, repairing and operating the water works system and any other properties of



the district including, but not limited to, administrative costs; debt service on bonds; debt service on bonds that were paid by the town because of the failure of the district to make such payments as they became due and payable; payroll and employee benefits; engineering expenses for maintenance, operation and repairs; legal, financial and auditing expenses; insurance and surety bond premiums; fees and expenses of trustees and paying agents; payments to others for services rendered to the district; taxes or fees which may be lawfully imposed upon the district or its income or operations or property under its control; and other current expenses required or permitted by law to be paid by the district, including the funding of reasonable reserves for maintenance, repair, replacements or operations.

“District”, the North Carver water district established in this act.

“District service area”, the area exclusively within the town of Carver as shown on the map of the district on file in the town clerk's office as may be amended by a majority vote of the commission, the local appointing authority, or the town.

“Local appointing authority”, the board of selectmen of the town of Carver.

“Municipality” or “town”, the town of Carver, Massachusetts.

“Revenues”, all revenues, rates, fees, charges, rents and other receipts derived from the operation of the water works system and the other properties of the district including, but not limited to, proceeds of bonds, proceeds of any grant or loan to the district, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties.

“Water works system”, the water supply and distribution system in the district service area and under the jurisdiction, ownership, control and regulation of the district including, but not limited to, the plants, works, instrumentalities or parts thereof; lands, easements, rights in land, water and flowage rights, approaches, water courses, rights of way, contract rights, franchises and privileges, all connections, dams, wells, reservoirs, water mains and pipe lines, equipment, buildings, structures, vehicles, standpipes, tanks, conduits, meters, hydrants, fire connections and fixtures of the system; purification, filtration and treatment works and other adjuncts thereto; other real or personal property interests incidental to and included in the system; and all facilities, betterment, extensions, improvements and enlargements thereto and to or for the system hereafter constructed or acquired.

**SECTION 2.** There is hereby created within the town of Carver, a body politic and corporate and political subdivision to be known as the North Carver water district. The commission of the district is hereby constituted and shall exercise the powers conferred by this act, which shall be deemed to be the performance of an essential public function. The commission shall not be subject to the supervision of the municipality or of any department, commission, board, bureau or agency of the municipality except as provided in this act.

Except as otherwise provided in this act, the powers of the commission shall be exercised by a board of 3 members to be elected by the voters of the town for overlapping 3 year terms. Vacancies shall be filled in accordance with section 11 of chapter 41 of the General Laws, except that at the first annual election, which shall occur within 64 days after the effective date of this act, the initial members of the commission shall be elected to 1, 2 and 3 year terms, with the candidate receiving the highest number of votes to serve for a 3

year term, the candidate with the second highest number of votes to serve for a 2 year term, and the candidate with the third highest number of votes to serve for a 1 year term. Until the initial members of the commission are elected in accordance with this section, the board of selectmen shall appoint 3 registered voters of the town as members. Two members of the commission shall constitute a quorum and the affirmative vote of 2 members shall be necessary for any action requiring a vote of the commission. Any such action shall take effect immediately unless otherwise provided and need not be published or posted.

The commission shall annually elect one of its members to be its chair. The commission may establish, with the approval of the local appointing authority and the town, by majority vote of its town meeting, a reasonable annual compensation for its members. In addition, each member may be reimbursed for the reasonable and necessary expenses incurred in the discharge of his official duties as approved by the commission. The commission shall be deemed to be a municipal agency and its members shall be deemed to be special municipal employees as defined in section 1 of chapter 268A.

Sections 23A to 23C, inclusive, of chapter 39 of the General Laws shall apply to the meetings of the commission and section 10 of chapter 66 shall apply to the commission's documentary materials or data.

The district shall be deemed to be a public employer and its members, officers and employees shall be deemed to be public employees as defined in section 1 of chapter 258 of the General Laws. The district shall be liable in tort for defects in a public way to the same extent a municipality may be liable under chapter 84 of the General Laws.

The district members and its employees shall be subject to chapter 150E of the General Laws, and, for purposes of said chapter, the district shall be considered an "employer" or "public employer" as defined in section 1 of said chapter 150E.

**SECTION 3.** The commission may appoint, employ and determine the compensation, duties and conditions of employment of a superintendent, who shall not be a member of the commission and who shall serve at the pleasure of the commission. The commission may not enter into a contract to employ a superintendent for a period of more than 5 years and the contract must be approved by the local appointing authority. The superintendent shall be the chief operating officer of the district and shall administer and direct its affairs as authorized or approved by the commission and shall have and execute the powers and duties of the commission as the commission may have delegated to the superintendent and not recalled. The superintendent or his designee, as approved by the commission, shall be the secretary of the commission and shall keep a record of the proceedings of the commission and shall be custodian of the books, documents and papers filed with the district. The superintendent or any other officer designated by the commission for this purpose may cause copies to be made of the minutes and other records and documents of the district and may certify that such copies are true copies and a person dealing with the district may rely upon such certification.

The commission may hire, transfer or otherwise appoint or employ legal counsel, financial advisors and other experts, engineers, agents, accountants, clerks, consultants and

employees as it deems necessary.

The commission may purchase insurance for itself or a member, officer, employee, or agent against liability that may arise out of his status as such, whether or not the commission would have the power to indemnify him against such liability.

The commission shall operate on a fiscal year commencing on July 1 of each year unless otherwise provided by the commission.

**SECTION 4.** The commission shall have all the rights and powers necessary or convenient to carry out and implement this act, including, but not limited to, the rights and powers:

(a) to adopt rules, regulations and procedures in connection with the performance of its functions and duties, and regarding the use of, and connection to, the water works system; to provide by regulation for civil penalties not to exceed \$5,000, which shall inure to the town, for the violation of its rule, order or regulation and to assess fines for violation of its rules and regulations in accordance with section 21 of chapter 40 of the General Laws;

(b) to maintain an office in the town at a place as it may determine;

(c) on behalf of the district, or on behalf of the town, upon the approval of the local appointing authority, to apply for, receive, accept, administer, expend or comply with the conditions, obligations or requirements of, a grant, gift or loan, including without limitation a grant, gift or loan from local, state or federal government agencies, donation or appropriation of property or money to support the purposes of the commission or contributions of money, property, labor or other things of value;

(d) to acquire, in the name of the district or on behalf of the town, with the approval of the local appointing authority, by purchase, lease, lease-purchase, sale and leaseback, gift or devise, or to obtain options for the acquisition of any property, real or personal, tangible or intangible, or any interest therein, in the exercise of its powers and the performance of its duties;

(e) with the approval of the local appointing authority, to acquire, sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purpose relative to, any property held by it, including real or personal, tangible or intangible property, or any interest therein, consistent with the General Laws, except that no lease, mortgage, exchange, transfer or other disposal of real property shall be permitted without the affirmative vote of the town at a duly called and held town meeting to consider the same;

(f) to enter onto any land within the district service area to make surveys, borings, soundings and examinations thereon, provided that the commission shall make reimbursements for any injury or actual damage resulting to such lands and premises or caused by any act of its authorized agents or employees and shall, so far as possible, restore the land to its condition prior to making such surveys, borings, soundings or examinations; to acquire by eminent domain, after obtaining approval of the town and the local appointing authority, any interest in real property within the district service area in the name of the commission in accordance with chapters 79 and 80A of the General Laws or any alternative



method provided by law; to order the removal or relocation of any conduits, pipes, wires, poles, structures or other property, located in a public way or place or in or upon private lands, which it deems to interfere with the laying out, construction or operation of any water system project and such order, to the extent specified therein, shall be deemed a revocation of the right or license to maintain such tracks, pipes, conduits, wires, poles, structures or other property in such public ways or places; to insure that the proper authorities grant a new location for the structure so removed or relocated; to compensate the owner of such property for the reasonable costs of the removal or relocation; to discontinue, remove such tracks, conduits, pipes, wires, poles, structures or other property and to charge the owner the cost of such discontinuance, removal or relocation. If an owner fails to comply with an order of the commission relating to any such structure within a reasonable time to be fixed in the order, the commission may discontinue and remove the tracks, conduits, pipes, wires, poles or other property, and may relocate them, and the cost of the discontinuance, removal or relocation shall be repaid to the commission by the owner. No discontinuance, removal or relocation shall entitle the owner of the affected property to any damages on account thereof, except for reimbursement of costs as provided in this section. This section shall not apply to facilities on property of the commonwealth under the control of the department of highways or the department of conservation and recreation or installed under licenses or permits granted by those departments, except with the department's approval;

(g) to contract for and purchase water supply, treatment and distribution services from, and to provide such services to, a person, a private or public corporation or a public instrumentality within or without the district service area or to another town, as the commission shall determine to be in the best interests of the district, or to the commonwealth or to the federal government when necessary or convenient for the operation of the water system;

(h) to construct, improve, extend, enlarge, maintain or repair the water works system and to occupy and operate, extend, enlarge, maintain or repair any portion of the water works system owned by the town, upon the terms and conditions determined by the commission and the local appointing authority;

(i) to use monies borrowed or appropriated by the town for the purposes of this act;

(j) to make contracts that shall be subject to chapter 30B of the General Laws; and to execute and deliver all instruments necessary or convenient for carrying out any of its purposes;

(k) to exercise the powers and privileges of, and to be subject to limitations upon, towns and cities provided under sections 1 to 24, inclusive, and 27 to 29, inclusive, of chapter 83 of the General Laws, insofar as such provisions may be applicable and are consistent with this act;

(l) to create an overall water policy and plan for the district;

(m) to do all things necessary, convenient or desirable for carrying out the purposes of this act or the powers expressly granted or necessarily implied in this act;

(n) consistent with the constitution and laws of the commonwealth, to have other powers as may be necessary for or incident to carrying out the foregoing powers and to accomplish the purposes of this act except that nothing in this act shall impose a duty on the commission to maintain groundwater levels within or without the boundaries of the town; and

(o) to enter into 1 or more intermunicipal agreements with governmental entities other than the town for the provision of water services, in accordance with section 4A of chapter 40 of the General Laws, except that no further vote of the town meeting shall be required with respect to such intermunicipal agreements.

**SECTION 5.** In addition to the powers of the commission otherwise provided in this act, the commission shall have the following powers and shall be subject to the following limitations:

(a) The commission may fix, revise, charge, collect and abate fees, rates, rents, assessments, delinquency charges or other charges for water supply and distribution and other services, facilities and commodities it furnishes or supplies. Subject to clause (c), fees, rates, rents, assessments, delinquency charges and other charges of general application shall be adopted and, as necessary, revised by the commission at least annually in accordance with procedures to be established by the commission for ensuring that interested persons are afforded notice and an opportunity to present data, views and arguments. The commission shall hold at least 1 public hearing on its schedule of fees, rates and charges or any revision thereof prior to its adoption, notice of which shall be delivered to the local appointing authority and published in a newspaper of general circulation in the town in advance of the hearing. Not later than the date of such hearing, the commission shall make the proposed schedule available to the public. The commission may combine its fees, rates and other charges for services provided by it in a single schedule. Fees, rates, rents, assessments, abatements, and other charges established by the commission shall not be subject to supervision of or regulation by any department, division, commission, board, bureau, or agency of the commonwealth or any of its political subdivisions. In order to provide for the collection and enforcement of any charges for fees, rates and other charges, the commission shall have the benefit, without further acceptance of sections 42A to 42F, inclusive, of chapter 40 of the General Laws or filing of any certificate relating thereto, of liens for unpaid fees, rates, rents, assessments and other charges as provided in sections 42A and 42B of said chapter 40 to the extent applicable and consistent with this act. The commission shall certify to the town tax collector any fee, rate or charge for which a lien has arisen, and the assessors shall add them to the property tax assessed on the property to which it relates when the annual assessment of town property taxes is made. The town tax collector shall act as collector for the district and collect the rate, fee or charge as provided in section 42D of said chapter 40. The collector or town treasurer shall pay over to the district any amounts collected on account of such rates, fees or charges.

(b) Subject to clause (e), the fees, rates, rents, assessments and other charges established by the commission in accordance with clause (a) shall be fixed and adjusted relative

to the aggregate thereof so as to provide revenues sufficient: (i) to pay the current expenses of the commission; (ii) to pay the principal, premium, and interest on bonds for costs as they become due and payable; (iii) to create and maintain such reasonable reserves as may be reasonably required by the commission or by any trust agreement or resolution securing bonds issued by the town on account of capital costs; (iv) to provide funds for paying the costs of all necessary repairs, replacements and renewals of the water system; and (v) to pay or provide for any amounts which the commission may be obligated to pay or provide for by law or contract, including a resolution or contract with or for the benefit of the holders of bonds issued for the commission. The commission shall submit its annual operating budget to the local appointing authority for review and recommendation and all funds expended by the commission shall be subject to appropriation by the town. Once the town approves an appropriation for the district, the commission may allocate the use of such amounts as it shall, in its sole discretion, determine.

(c) The commission shall undertake a study and examination of its estimated expenses and costs of constructing, maintaining, operating and improving the system, and shall, 1 year after the effective date of this act, promulgate, in accordance with clauses (a) and (b), a schedule of fees, rents, rates and other charges. The schedule shall become effective upon promulgation and shall provide for the metering, monitoring and other measuring of, and charging for, water supply services provided by the commission to consumers of such services in the town, including municipal property, the commonwealth and all independent agencies and authorities of the town or the commonwealth. An exemption from such charges provided to the commonwealth or the town under any general or special law shall not apply as of the effective date of the such schedule, except that no betterment or special assessment shall be made by the commission under the authority of chapters 40 or 80 of the General Laws or any other general or special law against property owned by the commonwealth or its political subdivisions.

(d) The district may make special assessments under sections 42G, 42H, 42I and 42K of chapter 40 of the General Laws by vote of the commission. The commission shall certify any district special assessment or betterment to the town assessors, and the assessors shall commit them to the town tax collector as provided in chapter 80 of the General Laws. The town tax collector shall act as collector for the district and collect any betterments or special assessments as provided in chapter 80. The collector shall include on municipal lien certificates of the town any district water rates, fees or charges that are liens, and shall issue certificates under section 12 of said chapter 80 to dissolve liens for special assessments or betterments of the district when such assessments or betterments have been paid in full or abated.

(e) The town is hereby authorized to establish an Enterprise Fund in accordance with the provisions of section 53F½ of chapter 44 of the General Laws for the operation of the water supply system. All revenues of the district, including all amounts appropriated by the town on account of the district, shall be held in the care and custody of the treasurer of the



town and shall be disbursed only upon the approval and execution of a warrant by the local appointing authority.

(f) A water supply system shall be subject to the rules and regulations of the town and the applicable laws of the commonwealth and shall comply with any approval required thereunder.

(g) The activities of the commission shall be consistent with the official planning documents adopted from time to time by the town boards and commissions.

**SECTION 6.** Notwithstanding the provisions of section 13 of chapter 80 of the General Laws, or the provisions of any other general or special law to the contrary, an assessment on account of a betterment project of the district may be apportioned into such number of equal portions, not exceeding 40, as may be determined by the district.

**SECTION 7.** Insofar as this act is inconsistent with a general or special law, administrative order or regulation or law of the town other than a rule or regulation of the board of health, this act shall be controlling.

**SECTION 8.** This act, being necessary for the welfare of the town and its inhabitants, shall be liberally construed to effect its purposes.

**SECTION 9.** This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

**SECTION 10.** This act shall take effect upon its passage.

Approved June 4, 2008

## **Chapter 125. AN ACT FURTHER REGULATING THE DISCLOSURE OF CERTAIN FINANCIAL INFORMATION TO DIVISION OF MEDICAL ASSISTANCE EXEMPTING CERTAIN BANK FEES.**

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

Chapter 118E of the General Laws is hereby amended by striking out section 23A, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:—

Section 23A. Upon written request signed by an authorized employee or agent of the division, the treasurer of a financial institution shall provide, without charge, the deposit and withdrawal records of the preceding 5 years for an applicant for or recipient of medical assistance under this chapter to any authorized employee or agent of the division or to the applicant or recipient. A treasurer who unreasonably refuses to provide these records within the time limit provided in the request or who willfully provides false information in the reply shall forfeit \$50 to the commonwealth.

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For the purposes of this section, “financial institution” shall mean a national bank, federal savings bank, federal savings and loan association or federal credit union, if such bank, association or credit union is authorized to transact business and has its main office or a branch office in the commonwealth; or a trust company, credit union, co-operative bank or savings bank, if such company, credit union or bank is organized and exists under the laws of the commonwealth or any other state of the United States or is otherwise authorized to do business in the commonwealth and has its main office or a branch office in the commonwealth; or a benefit association, insurance company or safe deposit company authorized to do business in the commonwealth.

Approved June 4, 2008

## **Chapter 126. AN ACT TO PROMOTE THE SAFETY OF VICTIMS OF VIOLENCE.**

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

Chapter 111 of the General Laws is hereby amended by inserting after section 25I the following section:-

Section 25J. (a) The department of public health, in consultation with other executive office of health and human services agencies and the executive office of public safety and security, shall develop guidelines regarding the establishment of programs to protect the safety of victims of violence including, but not limited to, intimate partners. The guidelines shall assure that program coordinate services with existing state, community-based, and clinical resources to the maximum extent possible. The guidelines shall be developed in consultation with an advisory group to be appointed by the commissioner, composed of experts in the field of violence prevention, representatives from various health care provider associations and survivors of violence.

(b) The department shall establish a program to disseminate the guidelines and train health care providers and others considered appropriate by the department regarding the establishment of programs under the guidelines.

Approved June 4, 2008

## **Chapter 127. AN ACT AUTHORIZING THE TOWN OF TOPSFIELD TO ISSUE A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws or any

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other general or special law to the contrary, the licensing authority of the town of Topsfield may grant an additional license for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138; provided, however, that the sale of wines and malt beverages shall be incidental to the sale of food or other products. The license shall be subject to all of said chapter 138 except said section 17.

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

Approved June 12, 2008

**Chapter 128. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF WATERTOWN TO FILL BY APPOINTMENT A VACANCY IN THE BOARD OF TRUSTEES OF THE PUBLIC LIBRARY.**

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

**SECTION 1.** Notwithstanding section 4-2(c) of the charter of the city known as the town of Watertown, or of any other general or special law or charter to the contrary, the vacancy created on February 8, 2008 in the office of board of trustees of the public library shall be filled from among the voters of the town of Watertown by a vote of the majority of the remaining members of the board and the president of the town council.

**SECTION 2.** The person appointed to fill the vacancy in the office of board of trustees of the public library pursuant to this act shall serve until the next regular November 2009 town election. The person elected at that town election, if not then serving as a member of the board of trustees of the public library, shall forthwith be sworn and shall serve for the last 2 months of the calendar year, in addition to the term ending December 31, 2011, for which the person was elected.

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

Approved June 12, 2008

**Chapter 129. AN ACT RELATIVE TO THE FURTHER ECONOMIC DEVELOPMENT OF THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for economic development 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 last sentence of subsection (c) of section 10 of chapter 152 of the acts of 1997, as most recently amended by section 51 of chapter 122 of the acts of 2006, is hereby amended by adding the following clause:- ; and (vi) to reimburse the commonwealth for state infrastructure development assistance provided by the commonwealth in accordance with sections 8 and 11A of chapter 293 of the acts of 2006 relative to certified economic development projects within the Convention Center Finance District or the Springfield Civic and Convention Center Finance District.

**SECTION 2.** Said section 6 of chapter 293 of the acts of 2006 is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b) In addition to the provisions of said chapters 23G and 40D of the General Laws pertaining to the security of bonds issued by the agency, bonds issued pursuant to this act may be secured by a pledge of state infrastructure development assistance as provided in section 8 under a trust agreement or other financing document with such terms and conditions as the agency shall determine in accordance with this act and the applicable provisions of said chapters 23G and 40D; provided, however, that any state infrastructure development assistance provided pursuant to section 8 shall be applied solely to the payment of, and the security for, bonds issued for the purposes described in subsection (a) in accordance with the infrastructure development assistance agreement between the agency, the commonwealth, the municipality and the developer executed pursuant to said section 8 and shall not exceed the amount necessary for debt service payments on such bonds.

**SECTION 3.** The first sentence of subsection (c) of said section 6 of said chapter 293 is hereby amended by striking out the figure “10” and inserting in place thereof the following figure:— 8.

**SECTION 4.** Subsection (d) of said section 6 of said chapter 293 is hereby amended by inserting the following sentence:- Notwithstanding any general or special law to the contrary, the agency shall not be precluded from carrying out its obligations under this act if it has previously provided technical, real estate, lending, bond financing or other assistance to: (i) an economic development project including, but not limited to, a project in which the agency may have an economic interest; (ii) an economic development district; or (iii) a municipality associated with, or that may benefit from, an economic development proposal.

**SECTION 5.** The last sentence of subsection (b) of section 7 of said chapter 293 is hereby amended by striking out the word “body.”, the second time it appears, and inserting in place thereof the following words:- body; provided, however, that pending a vote of the governing body, the economic development proposal application process shall proceed upon mutual agreement of the secretary, municipal officers and developer, subject to final approval of the proposal by the governing body; provided, further, that for the purposes of this subsection, in a city having a Plan D or Plan E charter the term municipal officers shall mean the city manager, in any other city the term municipal officers shall mean the mayor, and in a town the term municipal officers shall mean the board of selectmen.

**SECTION 6.** Subsection (c) of said section 7 of said chapter 293 is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:— (iii) the secretary certifies that the municipality has established a liquidity reserve for the benefit of the commonwealth for each assessment parcel within an economic development project in an amount equal to twice the total annual debt service due on the bonds allocable to said assessment parcel established pursuant to section 9; provided, further, that said reserve shall be funded by the municipality from amounts provided by the developer or with surety bonds, insurance policies or other credit facilities satisfactory to the secretary; and provided further, that said reserve shall be maintained throughout the municipality's obligation to provide local infrastructure development assistance with respect to such assessment parcel; and.

**SECTION 7.** Said section 7 of said chapter 293 is hereby further amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:—

(d) The aggregate principal amount of bonds issued pursuant to section 6 shall not exceed \$250,000,000.

(e) The secretary shall not certify any economic development proposal where municipal approval was secured on or before September 7, 2006. The secretary shall not approve more than 2 economic development proposals from any 1 municipality. Not more than \$200,000,000 shall be expended for projects in municipalities that are not economically distressed. Economically distressed municipalities shall include any municipality in which the unemployment rate is at least 1.5 per cent higher than the statewide average in the year the application is certified by the secretary or in which the median income of the municipality is 80 per cent or less than the state median income in the year the application is certified by the secretary. The secretary shall give priority to projects in economically distressed municipalities and he shall give highest priority to the projects in which both the unemployment rate and median income criteria are met.

**SECTION 8.** Subsection (a) of section 8 of said chapter 293 is hereby amended by striking out clauses (iii) and (iv) and inserting in place thereof the following 2 clauses:— (iii) the municipality shall provide local infrastructure development assistance to the commonwealth with respect to the economic development project to the extent and for such time as is provided in section 10; (iv) the commonwealth shall provide infrastructure development assistance to the agency to pay the debt service due in each fiscal year on any bonds issued by the agency to finance the costs of public infrastructure improvements included in such economic development project, subject to reimbursement of all or a portion of such state infrastructure development assistance through the collection of infrastructure assessments as provided in section 9 of this act and from local infrastructure assistance provided by the municipality as provided in section 10.

**SECTION 9.** Said section 8 of said chapter 293 is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b) The agency shall pledge the infrastructure development assistance agreement and the rights of the agency to receive state infrastructure development assistance, as provided

in section 10, pursuant to said agreement as security for the payment of bonds issued by the agency to finance costs of the public infrastructure improvements described in said agreement. The obligation of the commonwealth to pay such state infrastructure development assistance to the agency in the manner provided in the infrastructure development assistance agreement shall constitute a general obligation of the commonwealth for which the full faith and credit of the commonwealth shall be pledged for the benefit of the agency.

**SECTION 10.** Subsection (a) of section 10 of said chapter 293 is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:— For as long as state infrastructure development assistance shall be provided in accordance with this section, the commissioner shall determine and certify to the secretary and the treasurer of the municipality the amount of new state tax revenues generated with respect to each commercial component of a certified economic development project. Such determination and certification shall be made annually after the commissioner has received the relevant data necessary for such determination.

**SECTION 11.** Said section 10 of said chapter 293 is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Where the commissioner determines that the new state tax revenues generated by a completed and occupied commercial component of a certified economic development project are less than the allocable debt service apportioned to that commercial component, such amount shall constitute a revenue shortfall for such commercial component and a municipality shall be obligated to provide local infrastructure development assistance in an amount equal to such shortfall. Local infrastructure development assistance provided by the municipality shall be paid to the commonwealth in reimbursement for state infrastructure development assistance provided by the commonwealth with respect to such certified economic development project. Local infrastructure development assistance shall constitute a general obligation of the municipality to which its full faith and credit shall be pledged. To the extent the municipality shall fail to provide any or all portions of such local infrastructure development assistance to or for the credit of the commonwealth, the secretary shall certify the amount that is unpaid to the state treasurer and the state treasurer shall reduce amounts distributable or payable by the commonwealth to such municipality by the unpaid amount in accordance with section 20 of chapter 59 of the General Laws. Notwithstanding the foregoing, once the cumulative new state tax revenues attributable to an assessment parcel allocable to a commercial component of a certified economic development project equal or exceed an amount equal to the principal amount of bonds issued by the agency which are allocable to such commercial component, plus an amount equal to all interest accrued on such bonds to such date, the municipality shall have no obligation thereafter to provide local infrastructure development assistance for such assessment parcel.

**SECTION 12.** Said section 10 of said chapter 293 is hereby further amended by adding the following subsection:-



(d) Notwithstanding any provision of this act to the contrary, if the developer of any certified economic development project has agreed to the levy and collection of infrastructure assessments within the economic development district during a revenue shortfall, as determined in accordance with this section, the infrastructure development assistance agreement for such certified economic development project shall provide that the obligation of the municipality to provide local infrastructure development assistance to the commonwealth for any such revenue shortfall shall be assumed by the developer and payable solely from such infrastructure assessments; but such assumption shall not relieve the municipality of its general obligation or preclude the commonwealth from recovering the amounts otherwise distributable to the municipality in accordance with section 20 of chapter 59 of the General Laws.

**SECTION 13.** Subsection (b) of section 11 of said chapter 293 is hereby amended by striking out clause (i) and inserting in place thereof the following clause:- (i) designation as a TIF zone pursuant to section 59 of chapter 40 of the General Laws; provided, however, that a certified economic development project designated as a TIF zone pursuant to said section 59 of said chapter 40 prior to January 1, 2009 shall be eligible to receive financial assistance for public infrastructure improvements pursuant to this act;.

**SECTION 14.** Said subsection (b) of said section 11 of said chapter 293 is hereby further amended by adding the following sentence:- The ineligibility to participate in economic assistance programs as provided in clauses (i) to (v), inclusive, shall not apply to any tenant of a certified economic development project which is not an affiliate of the developer.

**SECTION 15.** The first sentence of subsection (c) of said section 11 of said chapter 293 is hereby amended by striking out the words "within Suffolk County".

**SECTION 16.** Said chapter 293 is hereby further amended by inserting after section 11 the following section:-

Section 11A. Notwithstanding any provision of this act to the contrary, the estimates calculated under clause (iv) of subsection (a) and clause (i) of subsection (c) of section 7 of new state tax revenue attributable to an economic development project within the Convention Center Finance District as defined in section 2 of chapter 152 of the acts of 1997 or within the Springfield Civic and Convention Center Finance District as defined in subsection (b½) of section 10 of said chapter 152 shall include an amount of new revenue from the excises imposed by section 2 of chapter 64H of the General Laws if the Massachusetts Convention Center Authority has entered into an agreement with a developer and the secretary dedicating such excises deposited into the Convention Center Fund in such amount to support the economic development project in accordance with clause (vi) of subsection (c) of said section 10 of said chapter 152. The commissioner shall also determine and certify to the secretary the amount of such excises attributable to the economic development project that have been deposited into the Convention Center Fund in each fiscal year pursuant to subsection (b) or said subsection (b½) of said section 10 of said chapter 152 and, subject to

said subsection (c) of said section 10 of said chapter 152, the amount of such receipts provided for pursuant to the agreement between the convention center authority, the developer and the secretary shall be transferred to the General Fund, but in no event shall the amount transferred exceed the new state tax revenue attributable to the related economic development project as calculated by the commissioner for purposes of section 10. Nothing in this section shall be construed to allow the secretary to approve more than 2 economic development proposals from any 1 municipality, in accordance with subsection (e) of section 7.

**SECTION 17.** Said chapter 293 is hereby further amended by inserting after section 12 the following section:-

Section 12A. Notwithstanding any general or special law to the contrary, a private entity engaged in a construction, development, renovation, remodeling, reconstruction, rehabilitation or redevelopment project receiving funds pursuant to this act shall properly classify individuals employed on the project and shall comply with all laws concerning workers' compensation insurance coverage, unemployment insurance, social security taxes and income taxes with respect to all such employees. All construction contractors engaged by an entity on any such project shall furnish documentation to the appointing authority showing that all employees employed on the project have hospitalization and medical benefits that meet the minimum requirements of the connector board established in chapter 176Q of the General Laws.

Approved June 12, 2008

**Chapter 130. AN ACT PROVIDING FOR THE INVESTMENT IN AND  
EXPANSION OF THE LIFE SCIENCES INDUSTRY IN THE  
COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate investment in and expansion of the life sciences in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2008, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2008; provided, however that notwithstanding any general or special law to the contrary, appropri-

ations made in this act shall not revert and shall be available for expenditure until June 30, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**NO SECTION 2.**  
**SECTION 2A.**

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**  
*Small Business Capital Access Program.*

1599-7107 For a capital access reserve to provide loan guarantees to small businesses pursuant to section 57 of chapter 23A of the General Laws ..... \$5,000,000

**SECTION 2B.** To provide for a program of infrastructure development, improvements and various capital investments, the sums set forth in this section for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds and approval thereof.

**EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT.**  
*Massachusetts Life Sciences Center.*

7002-0015 For the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws; provided, however, that not less than \$12,900,000 shall be expended for and used to assist in water and waste water infrastructure improvements for the proposed cell culture manufacturing facility and purification plant containing office and lab facilities in the town of Framingham; provided, further, that not less than \$12,600,000 shall be expended for the construction of supporting infrastructure, comprised of local arterial and connector roads for the I-93 interchange in the towns of Andover, Wilmington and Tewksbury; provided, further, that not less than \$6,500,000 shall be expended for the design, construction and development for a life science incubator building at the William Stanley Business Park in the city of Pittsfield; provided, further, that not less than \$10,000,000 shall be expended for a new nano and biomanufacturing facility at the University of Massachusetts at Lowell; provided, further, that \$5,500,000 shall be appropriated to the Baystate Medical Center for the purpose of executing a lease agreement with the Pioneer Valley Life



Sciences Institute in the city of Springfield for costs associated with the capital expansion of a life sciences incubator; provided, further, that not less than \$1,100,000 shall be expended for the purchase and conversion of 3 vehicles into mobile science laboratories to support biotechnology education initiatives of the Massachusetts Academy for Life Sciences established by subsection (c) of section 2MMM of chapter 29 of the General Laws; provided, further, that said mobile science laboratories shall advance the goals of the Massachusetts Academy for Life Sciences; provided, further, that funds for those purposes shall be provided through a contract with the Massachusetts Biotechnology Education Foundation to provide grants, in consultation with the board of higher education, to public and private institutions of higher learning to purchase and convert vehicles into mobile science laboratories; provided, further, that each vehicle shall be fueled with an alternative fuel, as defined in 42 U.S.C. section 13211; provided, further, that amounts expended shall include the cost of vehicles, equipment, furniture and other costs associated with the conversion of the vehicles into mobile science laboratories; provided, further, that all 3 mobile science laboratories shall be owned and operated by each participating institution of higher learning and assigned to a specific region of the commonwealth, as designated by the Massachusetts Academy for Life Sciences, in consultation with each institution of higher learning; provided, further, that the designated regions shall not overlap; provided, further, that not less than \$9,500,000 shall be expended for construction and capital improvements at the Tufts University Cummings School of Veterinary Medicine New England Regional Biosafety Laboratory to improve public health, protect public safety, improve science education and stimulate economic development by providing the opportunity to translate laboratory discoveries into viable vaccines, therapies and cures for emerging infectious diseases and bioterrorist threats; provided, further, that not less than \$10,000,000 shall be expended for construction, renovations and infrastructure improvements for the Marine Biological Laboratory located in Woods Hole; provided, further, that said Marine Biological

Laboratory shall collaborate with the Regional Technology Development Corporation of Cape Cod and the University of Massachusetts at Dartmouth to create and support a Center for Regenerative Biology and Medicine located at said Marine Biological Laboratory to develop commercial marine technology, provide research and development for life sciences including, but not limited to, marine-based stem cell research, and expand life science and marine technology education; provided, further, that not less than \$5,000,000 shall be expended for the design, construction, development and related infrastructure improvements for a regional incubation center for life science initiatives to be located in the city of New Bedford and operated in conjunction with the University of Massachusetts at Dartmouth and Bristol Community College; provided, further, that not less than \$5,000,000 shall be expended for the design, construction, development and related infrastructure improvements for a life sciences center which shall be located at the former Paul A. Dever State School in the city of Taunton and managed by a board of directors consisting of 13 members: 1 of whom shall be the chancellor of the University of Massachusetts at Dartmouth or his designee, 1 of whom shall be the president of Bridgewater State College or his designee, 1 of whom shall be the president of the Massachusetts Maritime Academy or his designee, 1 of whom shall be the president of Massasoit Community College or his designee, 1 of whom shall be the president of Cape Cod Community College or his designee, 1 of whom shall be the president of Bristol Community College or his designee, 1 of whom shall be the president of Wheaton College or his designee, 1 of whom shall be the commissioner of mental retardation or his designee, 1 of whom shall be the president of the Massachusetts Federation of Teachers or his designee, 1 of whom shall be the president of the Massachusetts Teachers Association or his designee, 1 of whom shall be the president of the Massachusetts AFL-CIO or his designee, 1 of whom shall be the president of the Taunton Area Chamber of Commerce or his designee, and 1 of whom shall be the director of Southeastern Regional Planning and Economic District or his designee; provided, further, that the life sciences center shall

include, but not be limited to, an education and training facility and a laboratory research facility with state-of-the-art equipment offering research and development facilities for collaboration with industry partners; provided, further, that not less than \$10,000,000 shall be deposited in the Massachusetts Small Business Matching Grant Fund established in section 9 of said chapter 23I of the General Laws; provided, further, that not less than \$5,000,000 shall be deposited in the Massachusetts Life Sciences Education Fund established in section 10 of said chapter 23I of the General Laws; provided, further, that not less than \$90,000,000 shall be expended for the design, construction, development and related infrastructure improvements for an advanced therapeutics cluster to be constructed at the University of Massachusetts Medical School in Worcester, which shall be named the Albert “Albie” Sherman Center, and shall include a RNAi institute, a stem cell biology cluster, cord blood bank and a gene therapy cluster; provided, however, that said funds shall not be used for faculty salaries; provided, further, that not less than \$95,000,000 shall be expended for the design, construction, development and related infrastructure improvements of a life science laboratory research center complex including a laboratory research facility with state-of-the-art equipment offering research and development facilities for collaboration with industry partners to develop methods and technologies that may be translated into new commercial services and products at the University of Massachusetts at Amherst; provided, however, that said funds shall not be used for faculty salaries; provided, further, that not less than \$10,000,000 shall be expended for the purchase of state-of-the-art equipment, renovations and related expenses to support the Center for Personalized Cancer Therapy at the University of Massachusetts at Boston, a collaboration of the University of Massachusetts at Boston and the Dana-Farber Harvard Cancer Center; provided, however, that said funds shall not be used for faculty salaries; provided, further, that funds appropriated for the design, construction, development and related infrastructure improvements for an advanced therapeutics cluster to be constructed at the University of Massachusetts Medical School in Worcester, for the design,



construction, development and related infrastructure improvements of a life science laboratory research center complex at the University of Massachusetts at Amherst, for the design, construction, development and related infrastructure improvements for a nano and biomanufacturing facility at the University of Massachusetts at Lowell and for the renovations and related expenses for the Center for Personalized Cancer Therapy at University of Massachusetts at Boston shall be transferred to the University of Massachusetts Building Authority for these infrastructure improvements and design and construction; provided, further, that no funds shall be transferred from this item for a phase of construction until the secretary of administration and finance certifies in writing to the board of the Massachusetts Life Sciences Center established by section 3 of said chapter 23I of the General Laws and to the house and senate committees on ways and means that all sources of funding for that phase of the facility have been committed and are available as necessary for commencement of design and construction; provided, further, that said written certification shall include copies of all business plans, letters of financial commitment and other documentation as said secretary and said board deem necessary to certify that all other sources of funding have been secured; provided, further, that the University of Massachusetts Building Authority shall submit to the clerks of the house of representatives and the senate a report which shall include the following: (1) a detailed list of all private donors and amounts donated for each facility, (2) a plan for design, construction, operation and maintenance and all associated costs and revenues of the facility, including the projected timeline for the completion of all phases of said projects, and (3) a description of proposed title to any and all assets associated with each facility; provided, further, that said secretary and said board shall not expend any funds until such report is filed with the clerks of the house and senate who shall forward the same to the house and senate committees on ways and means; provided, further, that notwithstanding any general or special law to the contrary, in the construction and financing of said nano and biomanufacturing facility, said advanced therapeutics cluster,

said life science laboratory research center complex and said Center for Personalized Cancer Therapy, said authority may use an alternative method for procurement of design and construction including, but not limited to, sequential construction management, turnkey, design and build procurement and the phasing of such procurement including, but not limited to, approval of design and construction stages separate from combined phases; provided, further, that said building authority shall require the assurance of labor harmony during all phases of development, including construction, reconstruction and capital and routine maintenance and shall provide adequate remedies to address the failure to maintain labor harmony which shall include, but not be limited to, assessment of liquidated damages and contract termination; provided, further, that the payment of prevailing wages, pursuant to sections 26 to 27F, inclusive, of chapter 149 of the General Laws, shall be required for all phases of said projects; and provided further, that not less than \$11,400,000 shall be expended as a grant for the acquisition of land pursuant to section 37 of this act to the University of Massachusetts at Dartmouth ..... \$500,000,000

**SECTION 3.** Chapter 23I of the General Laws is hereby amended by striking out section 2, as appearing in section 24 of chapter 123 of the acts of 2006, and inserting in place thereof the following section:-

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

“Affiliate”, any business which directly or indirectly controls or is controlled by or is under direct or indirect common control of another business including, but not limited to, any business with which a business is merged or consolidated, or which purchases all or substantially all of the assets of a business.

“Board”, the board of directors of the Massachusetts Life Sciences Center.

“Center”, the Massachusetts Life Sciences Center established by section 3.

“Certification proposal”, a written proposal submitted by a life sciences company for approval as a certified life sciences company pursuant to section 5.

“Certified life sciences company”, a company that has been certified by the center for participation in the commonwealth life sciences investment program and the life sciences tax incentive program, established by section 5.

“Company”, a business corporation, partnership, firm, unincorporated association or other entity engaged or proposing to engage in economic activity within the commonwealth, and any affiliate thereof, which is, or the members of which are, subject to taxation under chapter 62, 63, 64H or 64I.

“Department”, the department of revenue established pursuant to section 1 of chapter 14.

“Eligible new job”, a new job that shall not replace an existing job in the commonwealth and which may be a retained job; provided, however, that “eligible new job” may be further defined by rules, regulations or guidelines promulgated by the center pursuant to section 5; provided further, that an “eligible new job” shall be deemed to have been created in the commonwealth on the first day for which Massachusetts personal income tax withholding is required in connection with the compensation paid to an employee of a life sciences company or the first day for which Massachusetts estimated tax payments are payable by a partner of a partnership constituting a life sciences company.

“Enterprise”, a small business, as defined in chapters 23A or 40F, which has its principal place of business in the commonwealth and is, or proposes to be, engaged in research and development or manufacturing in the life sciences industry.

“Equity investment”, (a) a share in a life sciences company certified pursuant to section 5, whether or not transferable or denominated stock, or similar security; (b) interest of a limited partner in a limited partnership; or (c) warrant or right, other than a right to convert, to purchase, sell or subscribe to a share, security or interest of a kind specified in clauses (a) or (b); provided, however, that when making an equity investment in an enterprise pursuant to section 7, the center shall receive not less than 3 per cent of the equity in said enterprise.

“Independent research institution”, a nonprofit research organization that holds tax-exempt status granted under section 501(c)(3) of the Internal Revenue Code and shall be organized and operated exclusively for scientific or educational purposes; provided, however, that “independent research institution” shall not mean a hospital, college, university or private foundation.

“Life sciences”, advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science.

“Life sciences company”, a business corporation, partnership, firm, unincorporated association or other entity engaged in life sciences research, development, manufacturing or commercialization in the commonwealth, and any affiliate thereof, which is, or the members of which are, subject to taxation under chapter 62, 63, 64H or 64I.

“New state revenue”, revenue derived from a life sciences company by the creation of any eligible new jobs or by new commercial activity that would otherwise not have taken place in the commonwealth or as may be defined by any rules or regulations promulgated by the center pursuant to section 5.



“Permanent full-time employee”, an individual who: (i) is in an employment relationship which, at its inception, does not have a termination date which is a date certain or which is determined with reference to the completion of some specified scope of work; (ii) works a minimum number of weekly hours as the center may specify by rule, regulation or guideline; and (iii) receives employee benefits at least equal to those provided to other full-time employees of the employer, which shall be a life sciences company.

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

“Program”, the commonwealth life sciences investment program established by section 5.

“Professional investor”, a bank, bank holding company, savings institution, trust company, insurance company, investment company registered under the federal Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, licensee under the federal Small Business Investment Act of 1958 or any person, partnership or other entity of whose resources a substantial amount shall be dedicated to investing in securities or debt instruments and whose net worth exceeds \$250,000.

“Qualified security”, a note, stock, treasury stock bond, debenture, evidence of indebtedness, certificate of interest or participation in a profit-sharing agreement, preorganization certificate or subscription, transferable share, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application; in general, any interest or instrument security, so-called, or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing; and debt of and partnership interest in, as a general or limited partner, any general or limited liability partnership organized under the laws of the commonwealth, and debt of and membership interest in any limited liability company organized under the laws of the commonwealth.

“Real estate project”, real property where, after a life sciences company is certified, construction or renovation shall be initiated which, when completed, shall result in an increase in the assessed value of the real property of at least 100 per cent over its assessed value as of the date of certification; provided, however, that if a real estate facility is a business incubator facility and is designated as a certified life sciences company pursuant to section 5, each business which executes a binding lease for space in that facility after the date on which the construction or renovation activity begins shall be eligible for separate designation as a certified life sciences company.

“Revenue”, receipts, fees, rentals or other payments or income received or to be received on account of obligations to the center including, but not limited to, income on account of the leasing, mortgaging, sale or other disposition of a project or proceeds of a loan made by the center in connection with any project, and amounts in reserves or held in other funds or accounts established in connection with the issuance of bonds and the proceeds of any investments thereof, proceeds of foreclosure and any other fees, charges or other income received or receivable by the center.

“Seed capital”, financing that is provided for the development, refinement and commercialization of a product or process and other working capital needs.

“Taxpayer”, a certified life sciences company or person subject to the taxes imposed by chapter 62, 63, 64H or 64I.

“Vocational technical school”, education institutions established pursuant to sections 14 and 15 of chapter 71, providing vocational-technical education as defined in section 1 of chapter 74.

**SECTION 4.** Section 3 of said chapter 23I, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b) The center shall be governed and its corporate powers exercised by a board of directors consisting of 7 directors: 1 of whom shall be the secretary of administration and finance or his designee; 1 of whom shall be the secretary of housing and economic development or his designee; 1 of whom shall be the president of the University of Massachusetts or his designee; and 4 of whom shall be appointed by the governor, 1 of whom shall be a physician licensed to practice medicine in the commonwealth and affiliated with an academic medical center, 1 of whom shall be a chief executive officer of a Massachusetts-based life sciences corporation which is a member of the board of directors of the Massachusetts Biotechnology Council, 1 of whom shall be a researcher involved in the commercialization of biotechnology, pharmaceuticals or medical diagnostic products and 1 of whom shall have significant financial experience in the life sciences sector. Each appointed member shall serve a term of 5 years, except that in making his initial appointments, the governor shall appoint 1 director to serve for a term of 1 year, 1 director to serve for a term of 2 years, 1 director to serve for a term of 3 years, 1 director to serve for a term of 4 years. The secretary of the executive office of administration and finance and the secretary of the executive office of housing and economic development, or their designees, shall serve as co-chairs of the board. Any person appointed to fill a vacancy in the office of an appointed director of the board shall be appointed in a like manner and shall serve for only the unexpired term of such director. Any director shall be eligible for reappointment. Any director may be removed from his appointment by the governor for cause.

**SECTION 5.** Subsection (c) of said section 3 of said chapter 23I, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Four directors shall constitute a quorum and the affirmative vote of a majority of directors present at a duly called meeting if a quorum is present shall be necessary for any action to be taken by the board. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if all of the directors’ consent in writing to such action and such written consent is filed with the records of the minutes of the meetings of the board. Such consent shall be treated for all purposes as a vote at a meeting. Each director shall make full disclosure, under subsection (d), of his financial interest, if any, in matters before the board by notifying the state ethics commission, in writing, and shall ab-

stain from voting on any matter before the board in which he has a financial interest, unless otherwise permissible under chapter 268A.

**SECTION 6.** Said section 3 of said chapter 23I, as so appearing, is hereby further amended by striking out subsection (e) and inserting in place thereof the following:-

(e) The Board shall have the power to appoint and employ a president, and to fix his compensation and conditions of employment. The president shall be the chief executive, administrative and operational officer of the center and shall direct and supervise administrative affairs and the general management of the center. The president shall appoint and employ a chief financial and accounting officer and may, subject to the general supervision of the board, employ other employees, consultants, agents, including legal counsel, and advisors, and shall attend meetings of the board. The chief financial and accounting officer of the center shall be in charge of its funds, books of account and accounting records. No funds shall be transferred by the center without the approval of the board and the signatures of the chief financial and accounting officer and the treasurer, as appointed by the board pursuant to subsection (g).

**SECTION 7.** The first sentence of subsection (g) of said section 3 of said chapter 23I of the General Laws, as so appearing, is hereby amended by striking out the word "chairperson," and inserting in place thereof the following words:— treasurer and.

**SECTION 8.** Said subsection (g) of said section 3 of said chapter 23I, as so appearing, is hereby further amended by striking out the last sentence.

**SECTION 9.** Clause (14) of subsection (a) of section 4 of said chapter 23I of the General Laws, as so appearing, is hereby amended by striking out the words ", issue bonds and apply the proceeds thereof as provided in section 8,".

**SECTION 10.** Clause (15) of said subsection (a) of said section 4 of said chapter 23I, as so appearing, is hereby amended by striking out the words ", all as provided in section 8".

**SECTION 11.** Said section 4 of said chapter 23I, as so appearing, is hereby further amended by striking out clauses (16) and (17) and inserting in place thereof the following 2 clauses:-

(16) to act as the central entity and coordinating organization of life sciences initiatives on behalf of the commonwealth and to work in collaboration with governmental entities, bodies, centers, institutes and facilities and promote all areas of life sciences to advance the commonwealth's interests and investments in the life sciences;

(17) to promulgate a code of ethics to address collaborative state and business research activities; provided, further, that said code of ethics shall include recommendations, and proposed legislation if necessary, addressing the issue of exclusive licensing agreements for intellectual property developed using state funds between state-funded colleges and universities and private companies and institutions. Said code shall be forwarded to the clerks of the house and senate who shall forward the same to the joint committee on economic development and emerging technologies.



**SECTION 12.** Said section 4 of said chapter 23I, as so appearing, is hereby further amended by adding the following 3 clauses:-

(30) to operate as a licensed small business investment corporation pursuant to the provisions of the Small Business Investment Act of 1958, 15 U.S.C. section 661 et seq., as amended; provided, however, that as an alternative, the board may establish a subsidiary corporation to operate as a licensed small business investment corporation pursuant to said Small Business Investment Act of 1958, 15 U.S.C. section 661 et seq., and to make investments in qualified securities of enterprises through such subsidiary;

(31) to track and report to the general court on federal initiatives that have an impact on life sciences companies doing business in the commonwealth; and

(32) to create award programs to acknowledge successful companies, public and private institutions and programs in industry-specific areas, as determined by the center.

**SECTION 13.** Said chapter 23I is hereby further amended by striking out sections 5 to 8, inclusive, as so appearing, and inserting in place thereof the following 13 sections:-

Section 5. (a) There shall be established a commonwealth life sciences investment program which shall be administered by the center. The purpose of the program shall be to expand life sciences-related employment opportunities in the commonwealth and to promote health-related innovations by supporting and stimulating research and development, manufacturing and commercialization in the life sciences. Life sciences companies certified pursuant to subsection (b) shall be eligible for participation in the program.

(b) The center may, upon a majority vote of the board, certify a life sciences company as a certified life sciences company upon: (i) the timely receipt, as determined by the center, of a certification proposal supported by independently verifiable information, signed under the pains and penalties of perjury by a person expressly authorized to contract on behalf of the life sciences company and which shall include, but not be limited to: (A) an estimate of the projected new state revenue the life sciences company expects to generate during the period for which the company seeks certification, together with a plan, including precise goals and objectives, by which the life sciences company proposes to achieve the projected new state revenue, including for each tax year, an estimate of new commercial revenue that the commonwealth would not otherwise have received, an estimate of the number of permanent full-time employees to be hired or retained, an estimate of the year in which the company expects to hire or retain the employees, an estimate of the projected average salaries of said employees, an estimate of the projected taxable income pursuant to chapter 62 or 63 generated by said employees and an estimate of the methods by which the company shall obtain new employees and pursue a diverse workforce; (B) documentation of an agreement, if any, between the life sciences company and banking institutions with which the life science company shall have agreed to establish accounts and by which the banking institutions shall have agreed to commit a specified percentage of the funds deposited in the accounts for loans made thereby to companies under the small business capital access program established pursuant to section 57 of chapter 23A; and (C) if appropriate, documentation that the life sciences company has received approval for a certified project, pursuant to section 3F of

chapter 23A; and (ii) findings made by the center, based on the certification proposal, documents submitted therewith and any additional investigation by the center, and incorporated in its approval, that: (A) the life sciences company shall meet all statutory requirements and any other criteria that the center may prescribe including, but not limited to criteria in the following areas: whether the life sciences company has sufficient business contacts with the commonwealth as evidenced by its business activity within the commonwealth including, but not limited to, the number of full-time employees employed in the commonwealth; the life sciences company's potential to further technological advancements in the life sciences; the life sciences company's potential to offer a breakthrough medical treatment for a particular disease, or medical condition; the life sciences company's potential for leveraging additional funding or attracting additional resources to the commonwealth; the life sciences company's potential to promote life sciences manufacturing in the commonwealth; and evidence of potential royalty income and contractual means to recapture such income for the purposes of this chapter, as the center considers appropriate; and (B) a certified life sciences company shall meet the new state revenue and employment growth projections, as specified in the certification proposal, over the period for which it receives benefits.

(c) A certified life sciences company may, upon a majority vote of the board, be eligible for the following benefits which shall be awarded by the board on a competitive basis: (1) benefits from the life sciences tax incentive program established by subsection (d); (2) grants, loans or other investments from the Massachusetts Life Sciences Investment Fund established by section 6; (3) equity investments from the Dr. Craig C. Mello Small Business Equity Investment Fund established by section 7; (4) assistance from the regional technology and innovation centers established by section 11; (5) assistance from the center to obtain designation as a certified project in an economic opportunity area pursuant to section 3F of chapter 23A; (6) assistance from the center in accessing economic incentive programs within the Massachusetts office of business development, including access to the technical, human, financial, training, educational and site-finding resources necessary to expand or locate in the commonwealth; (7) assistance from the center in obtaining federal grants; (8) assistance from the center in facilitating clinical trials; (9) preference for funding for life science job training programs; or (10) preference for pre-permitted industrial land as identified by the Massachusetts Development Finance Agency.

(d) There shall be established a life sciences tax incentive program. The center, in consultation with the department, may annually authorize incentives, including incentives carried forward, refunded or transferred, pursuant to the following: subsection (m) of section 6 of chapter 62, subsection (n) of said section 6 of said chapter 62, paragraph 17 of section 30 of chapter 63, section 31M of said chapter 63, paragraph 6 of subsection (f) of section 38 of said chapter 63, the fourth paragraph of section 38C of said chapter 63, subsection (j) of section 38M of said chapter 63, section 38U of said chapter 63, section 38V of said chapter 63, section 38W of said chapter 63, the third paragraph of section 42B of said chapter 63, and subsection (xx) of section 6 of chapter 64H, in a cumulative amount, including the current



year cost of incentives allowed in previous years, that shall not exceed \$25,000,000 annually. The center may, in consultation with the department, limit any incentive or incentives to a specific dollar amount or time duration, or in any other manner deemed appropriate by the department; provided, however, that the department shall only allocate said incentives among commonwealth certified life sciences companies pursuant to subsection (b) and shall award said tax incentives pursuant to subsection (c).

The center shall provide an estimate to the secretary of administration and finance of the tax cost of extending benefits to a proposed project before certification, as approved by the commissioner of revenue, based on reasonable projections of project activities and costs. Tax incentives shall not be available to any certified life sciences company unless expressly granted by the secretary of administration and finance in writing.

(e) (1) Certification granted pursuant to subsection (b) shall be valid for 5 years starting with the tax year in which certification is granted. Each certified life sciences company shall file an annual report with the center detailing whether it has met the specific targets established in the proposal pursuant to subclause (A) of clause (i) of subsection (b).

(2) The certification of a life sciences company may be revoked by the center after an independent investigation and determination that representations made by the certified life sciences company in its certification proposal are materially at variance with the conduct of the life sciences company after receiving certification; provided, however, that the center shall review the certified life sciences company at least annually; provided, further, that a project with an actual return on investment that is less than 70 per cent of the return on investment projected in the certification proposal shall be deemed to contain a material variance for a revocation determination. If the center determines not to revoke certification upon a finding that the actual return on investment for the project is less than 70 per cent, the center shall provide its reasons for the decision in writing to the secretary of administration and finance, the commissioner of revenue and the clerks of the house of representatives and the senate, who shall forward the same to 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 center shall post these reasons on the internet for public access.

(3) Under this subsection, revocation shall take effect on the first day of the tax year in which the center determines that a material variance commenced. The commissioner of revenue shall, as of the effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the original certification of tax benefits under this section. The department shall issue regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the certification under this section; provided, however, that the recapture provisions in subsection (m) of section 6 of chapter 62 and section 38U of chapter 63 shall apply. If the original certification allowed sales and use tax exemptions pursuant to subsection (xx) of section 6 of chapter 64H, the purchaser shall accrue use tax as of the date of revocation on a portion of the sales price on which exemption was claimed that is proportionate to the remaining useful life of the property.



(4) Nothing in this subsection shall limit any legal remedies available to the commonwealth against any certified life sciences company.

(f) Capital funding may be revoked only by the center after an independent investigation and determination that representations made by the life sciences company in its certification proposal are materially at variance with the conduct of the life sciences company after certification; provided, further, that a life sciences company generating less than 70 per cent of the projected new state revenue in the certification proposal shall be deemed to contain a material variance for the purposes of a revocation determination. If the center does not revoke certification despite said material variance, the center shall provide its reasons for the decision in writing to the secretary of administration and finance, the commissioner of revenue and the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means, the joint committee on bonding, capital expenditures and state assets and the joint committee on economic development and emerging technologies. A notice of revocation under this subsection shall specify the date on which the revocation is effective, which shall be the date of the notice or the date on which the center determined that the material variance commenced. The secretary of administration and finance shall, as of the effective date of the revocation, disallow any loans, grants or other benefits allowed by the original certification under this section. The department may issue regulations to recapture any grants or loans allowed by the certification under this section.

(g) The center shall revoke the certification of a life sciences company when independent investigations conducted in 2 consecutive years determine that representations made by the life sciences company in its project proposal are deemed materially at variance, pursuant to paragraph (2) of subsection (e) or subsection (f).

(h) The board, in consultation with the executive office of administration and finance and the executive office of housing and economic development, shall promulgate rules, regulations or guidelines necessary to carry out the provisions of this section.

Section 6. (a) There shall be established and placed within the center a fund to be known as the Massachusetts Life Sciences Investment Fund, hereinafter in this section referred to as the fund, to be held by the center separate and apart from its other funds, to finance the activities of the center. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the center, any pension funds, federal grants or loans, royalties or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments as defined by the center, secured or held by the fund and any other monies which may be available to the center for the purposes of the fund from any other source or sources. Any revenues, deposits, receipts, or funds received through the receipt of royalties, interest, dividends, or the sale of equity instruments shall be deposited in the fund, and shall be available to the center for the purposes described

in this section, without further appropriation. All available moneys in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(b) The center shall invest and reinvest the fund and the income thereof only as follows: (1) making qualified investments pursuant to subsection (c); (2) defraying the ordinary and necessary expenses of administration and operation associated with the center; provided, however, that said administrative and operational expenses shall not exceed 15 per cent of the maximum amount authorized to be expended from the fund in a fiscal year; (3) investing any funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (4) paying binding obligations associated with such qualified investments which shall be secured by the fund as the same become payable; and (5) paying principal or interest on qualified investments secured by the fund or paying any redemption premium required to be paid when such qualified investments shall be redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement thereof established by the board, except for the purpose of paying binding obligations associated with qualified investments which shall be secured by the fund as the same become payable.

(c) The fund shall be held and applied by the center, subject to the approval of the board, to make qualified investments, grants, research and other funding and loans designed to advance the following public purposes for the life sciences in the commonwealth: (1) to stimulate increased financing for the expansion of research and development by leveraging private financing for highly productive state-of-the-art research and development facilities, equipment and instrumentation and by providing financing related thereto including, but not limited to, financing for the construction or expansion of such new facilities; (2) to make targeted investments, including research funding, proof of concept funding and funding for the development of devices, drugs or therapeutics and to promote manufacturing activities for new or existing advanced technologies and life sciences research; (3) to make matching grants to colleges, universities, independent research institutions, nonprofit entities, public instrumentalities, companies and other entities in connection with support from the federal government, industry and other grant-funding sources related to the expansion of research and development and to increase and strengthen economic development, employment opportunities and commercial and industrial sectors in the field of life sciences; (4) to provide bridge financing to colleges, universities, independent research institutions, nonprofit entities, public instrumentalities, companies and other entities for the receipt of grants as described in clause (3) awarded or to be awarded by the federal government, industry or other sources; (5) to provide fellowships, co-ops, internships, loans and grants; (6) to provide workforce training grants to prepare individuals for life sciences careers; (7) to provide funding for development, coordination and marketing of higher education programs; (8) to make qualified grants to certified life sciences companies for site remediation, preparation



and ancillary infrastructure improvement projects; and (9) to otherwise further the public purposes set forth herein.

(d) Proceeds of the fund may be used by the center to fund life sciences initiatives including: (1) international trade initiatives; (2) qualified grants to graduate level and doctoral students and post-doctoral fellows for living expenses from the Dr. Judah Folkman Higher Education Grant Fund established by section 8; (3) equity investments from the Dr. Craig C. Mello Small Business Equity Investment Fund established by section 7; (4) joint academic and industrial research and development and commercial business exchanges between the commonwealth and Israel, in collaboration with the Massachusetts international trade council; (5) the Massachusetts Technology Transfer Center, established by section 45 of chapter 75; (6) the Massachusetts Science, Technology Engineering, and Mathematics Grant Fund, established by section 2MMM of chapter 29; or (7) a program to promote the research and development of plant-made pharmaceuticals and industrial products through field trials, in collaboration with the department of agricultural resources.

(e) The center shall make no such qualified investment pursuant to clause (1) of subsection (b) unless: (1) said investment has been approved by a majority vote of the board; (2) the recipient is a certified life sciences company pursuant to section 5 or a project or initiative listed in subsection (d); (3) the center finds, to the extent possible, that a definite benefit to the commonwealth's economy may reasonably be expected from said qualified investment; provided, further, that in evaluating a request or application for funding, the center shall consider the following: (i) the appropriateness of the project; (ii) whether the project has significant potential to expand employment; (iii) the project's potential to enhance technological advancements; (iv) the project's potential to lead to a breakthrough medical treatment for a particular disease or medical condition; (v) the project's potential for leveraging additional funding or attracting resources to the commonwealth; (vi) the project's potential to promote manufacturing in the commonwealth; and (vii) evidence of potential royalty income and contractual means to recapture such income for the purposes of this chapter, as the center considers appropriate; (4) to the extent said investment is a capital investment made pursuant to clause (8) of subsection (c), the investment has been approved by the secretary of the executive office of administration and finance upon request of the center; provided, however, that said request shall be submitted to the secretary in writing and shall, include but not be limited to: (i) a description of the project or program to be funded; (ii) the economic benefits to the commonwealth which can reasonably be expected from said project or program; (iii) a copy of the proposed contract or other document executing the transaction between the center and the recipient of the funds; (iv) a description of the contractual or other legal remedies available to the center upon non-performance of the contract or other document executing the transaction by the recipient including, but not limited to, any provisions for restitution or reimbursement of the funds granted, loaned or otherwise invested in or with the recipient; and (v) any other information as the secretary may determine; and (5) said qualified investment conforms with the rules approved by the board.



Said rules shall set the terms and conditions for investments which shall constitute qualified investments including, but not limited to, loans, guarantees, loan insurance or reinsurance, equity investments, grants awarded pursuant to clause (3) of subsection (c), other financing or credit enhancing devices, as established by the center directly or on its own behalf or in conjunction with other public instrumentalities, or private institutions or the federal government. Said rules shall provide that qualified investments made pursuant to clauses (1) and (2) of said subsection (c) shall involve a transaction with the participation of at least 1 at-risk private party.

Said rules shall establish the terms, procedures, standards and conditions which the center shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities, oversee the progress of qualified investments and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified investments. Said rules shall provide for negotiated intellectual property agreements between the center and a qualified investment recipient which shall include the terms and conditions by which the fund's support may be reduced or withdrawn.

(f) The center may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors regarding the terms of any such investments including, but not limited to, the rights of such investors to participate in the income or appropriation of the fund. To further the objective of securing investments by private institutions or investors in the activities of the fund pursuant to the preceding sentence, the center may develop a proposal creating a separate investment entity which shall permit the commingling of the fund's resources with the maximum participation by such private institutions or investors in a manner consistent with the public purpose of the fund and under the terms and conditions established to protect and preserve the assets of the fund.

(g) Copies of the approved rules, and any modifications, shall be submitted to the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies.

(h) Qualified investment transactions made by the center pursuant to this section shall not, except as specified in this chapter, be subject to chapter 175, or any successor thereto, and shall be payable solely from the Massachusetts Life Sciences Investment Fund established by this section and shall not constitute a debt or pledge of the full faith and credit of the commonwealth, the center or any subdivision of the commonwealth.

(i) The center shall not make expenditure from or commitment of the assets of the fund including, but not limited to, the making of qualified investments secured by the fund, if following the making of said qualified investment, the amount of the fund shall be less than the minimum requirement established by the board.

Section 7. (a) There shall be established and placed within the center a fund to be known as the Dr. Craig C. Mello Small Business Equity Investment Fund, hereinafter in this

section referred to as the fund, to be held by the center separate and apart from its other funds. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the center, any pension funds, federal grants or loans, royalties or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments as defined by the center, secured or held by the fund and any other monies which may be available to the center for the purposes of the fund from any other source or sources. Any revenues, deposits, receipts, or funds received through the receipt of royalties, interest, dividends, or the sale of equity instruments shall be deposited in the fund, and shall be available to the center for the purposes described in this section, without further appropriation. All available moneys in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(b) The center shall invest and reinvest the fund and the income thereof only as follows: (1) making qualified equity investments pursuant to subsection (c); (2) investing funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (3) paying binding obligations associated with such qualified investments which shall be secured by the fund as the same become payable; and (4) paying principal or interest on qualified investments secured by the fund or paying any redemption premium required to be paid when such qualified investments shall be redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement thereof established by the board, except for the purpose of paying binding obligations associated with qualified investments which shall be secured by the fund as the same become payable.

(c) The fund shall be held and applied by the center to make qualified equity investments in enterprises seeking to raise seed capital; provided, however, that said qualified equity investments shall not exceed \$250,000 in any 1 enterprise. The center shall not make such qualified equity investments unless: (1) said investment has been approved by a majority vote of the board; (2) the recipient is a life sciences company certified pursuant to section 5; and (3) the center finds, to the extent possible, that a definite benefit to the commonwealth's economy may reasonably be expected from said qualified investment. In evaluating a request or application for funding, the center shall consider whether: (i) the proceeds of the equity investment shall only be used to cover the seed capital needs of the enterprise except as hereinafter authorized; (ii) the enterprise has a reasonable chance of success; (iii) the center's participation is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets or contingent upon matching funds, or because funding has been offered on terms that would substantially hinder



the success of the enterprise; (iv) the enterprise has reasonable potential to create a substantial amount of primary employment in the commonwealth; (v) the enterprise's principals have made or are prepared to make a substantial financial and time commitment to the enterprise; (vi) the securities to be purchased shall be qualified securities; (vii) there shall be a reasonable possibility that the center shall, at a minimum, recoup its initial investment; (viii) binding commitments have been made to the center by the enterprise for adequate reporting of financial data to the center, which shall include a requirement for an annual or other periodic audit of the books of the enterprise, and for such control on the part of the center as the board shall consider prudent over the management of the enterprise, to protect the investment of the center including the board's right to access, without limitation, financial and other records of the enterprise; and (ix) a reasonable effort has been made to find a professional investor to invest in the enterprise and such effort was unsuccessful; and (4) said qualified equity investment conforms with the rules approved by the board.

Said rules shall establish the terms, procedures, standards and conditions which the center shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities, oversee the progress of qualified equity investments and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified equity investments. Said rules shall provide that each recipient of a qualified investment shall be required to pay a fee as a condition of such receipt, and said fee may take the form of points, an interest rate premium or a contribution of warrants or other forms of equity or consideration to the fund. Said rules shall provide for negotiated agreements between the center and each recipient of a qualified investment regarding the terms and conditions by which the fund's support thereof could be reduced or withdrawn.

(d) The center may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors regarding the terms of such investments including, but not limited to, the rights of such investors to participate in the income or appropriation of the fund. To further the objective of securing investments by private institutions or investors in the activities of the fund pursuant to the preceding sentence, the center may develop a proposal relative to the creation of a separate investment entity which shall permit the commingling of the fund's resources with the maximum participation by such private institutions or investors consistent with the public purpose of the fund and under the terms and conditions established to protect and preserve the assets of the fund.

(e) Copies of the approved rules, and any modifications thereto, shall be submitted to the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies.

(f) Qualified equity investment transactions made by the center pursuant to this section shall not, except as specified in this chapter, be subject to chapter 175, or any successor thereto, and shall be payable solely from the Dr. Craig C. Mello Small Business



Equity Investment Fund established by this section and shall not constitute a debt or pledge of the full faith and credit of the commonwealth, the center or any subdivision of the commonwealth.

(g) The center shall not make expenditure from or commitment of the assets of the fund including, but not limited to, the making of qualified investments secured by the fund, if following the making of said qualified investment, the amount of the fund shall be less than the minimum requirement established by the board.

Section 8. (a) There shall be established and placed within the center a fund to be known as the Dr. Judah Folkman Higher Education Grant Fund, hereinafter in this section referred to as the fund, to be held by the center separate and apart from its other funds. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the center, any pension funds, federal grants or loans, royalties or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments as defined by the center, secured or held by the fund and any other monies which may be available to the center for the purposes of the fund from any other source or sources. Any revenues, deposits, receipts, or funds received through the receipt of royalties, interest, dividends, or the sale of equity instruments shall be deposited in the fund, and shall be available to the center for the purposes described in this section, without further appropriation. All available moneys in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(b) The center shall invest and reinvest the fund and the income thereof only as follows: (1) making qualified grants pursuant to subsection (c); (2) investing funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (3) paying binding obligations associated with such qualified investments which shall be secured by the fund as the same become payable; and (4) paying principal or interest on qualified investments secured by the fund or paying any redemption premium required to be paid when such qualified investments shall be redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement thereof established by the center, except for the purpose of paying binding obligations associated with qualified investments which shall be secured by the fund as the same become payable.

(c) The fund shall be held and applied by the center to make qualified grants to graduate level and doctoral students and post-doctoral fellows studying or employed in the life sciences for living expenses; provided, however, that the center shall make no such qualified grants unless said grant has been approved by a majority vote of the board. Grants awarded from the fund shall, in addition to any restrictions adopted by the center, shall be

awarded in \$5,000 increments not to exceed \$15,000 annually per recipient and further restrictions include: (1) recipients shall be enrolled in a graduate or doctorate level program or shall be working as postdoctoral fellows at a college, university, independent research institution or an academic medical center in the commonwealth; (2) recipients shall be commonwealth residents; and (3) the annual total household income of a recipient shall not exceed 300 per cent of the federal poverty level. The center shall make no such qualified grants pursuant to said clause (1) of said subsection (b) unless such qualified grant conforms with rules approved by the board.

Said rules shall establish the terms and conditions for grants which constitute qualified grants and shall establish the terms, procedures, standards and conditions which the center shall employ to identify qualified applications, process applications, make grant determinations, safeguard the fund, oversee the progress of qualified grants and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified grants.

(d) The center may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors regarding the terms of any such investments including, but not limited to, the rights of such investors to participate in the income or appropriation of the fund. To further the objective of securing investments by private institutions or investors in the activities of the fund pursuant to the preceding sentence, the center may develop a proposal creating a separate investment entity which shall permit the commingling of the fund's resources with the maximum participation by such private institutions or investors in a manner consistent with the public purpose of the fund and under the terms and conditions established to protect and preserve the assets of the fund.

(e) Copies of the approved rules, and any modifications thereto, shall be submitted to the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies.

(f) Qualified grants and investment transactions made by the center pursuant to the provisions of this section shall not, except as specified in this chapter, be subject to the provisions of chapter 175, or any successor thereto, and shall be payable solely from the Dr. Judah Folkman Higher Education Grant Fund, established by this section and shall not constitute a debt or pledge of the full faith and credit of the commonwealth, the center or any subdivision of the commonwealth.

(g) The center shall not make expenditure from or commitment of the assets of the fund including, but not limited to, the making of qualified investments secured by the fund, if following the making of said qualified investment, the amount of the fund shall be less than the minimum requirement established by the board.

Section 9. (a) There shall be established and placed within the center the Massachusetts Small Business Matching Grant Fund, hereinafter referred to in this section

as the fund, to be held by the center separate and apart from its other funds. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the center, any pension funds, federal grants or loans, royalties or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments as defined by the center, secured or held by the fund and any other monies which may be available to the center for the purposes of the fund from any other source or sources. Any revenues, deposits, receipts, or funds received through the receipt of royalties, interest, dividends, or the sale of equity instruments shall be deposited in the fund, and shall be available to the center for the purposes described in this section, without further appropriation. All available moneys in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(b) The center shall invest and reinvest the fund and the income thereof only as follows: (1) making qualified grants pursuant to subsection (c); (2) investing any funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (3) paying binding obligations associated with such qualified investments which shall be secured by the fund as the same become payable; and (4) paying principal or interest on qualified investments secured by the fund or paying any redemption premium required to be paid when such qualified investments shall be redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement thereof established by the center, except for the purpose of paying binding obligations associated with qualified investments which shall be secured by the fund as the same become payable.

(c) Notwithstanding any provision of this chapter to the contrary, a company need not be a certified life sciences company, as established in section 5, to be eligible for matching grants pursuant to this section. The fund shall be held and applied by the center to make qualified loans, grants or other investments to stimulate increased financing for life sciences and high technology research and development, manufacturing and commercialization in the commonwealth by matching grants to public agencies, independent research institutions, nonprofits or to life sciences or high technology companies to increase and strengthen the commonwealth's economic development, employment opportunities and commercial and industrial sectors. The fund shall provide matching grants to commonwealth-based life sciences or high technology companies that receive small business innovation research or small business technology transfer grants from the Small Business Administration, pursuant to 15 U.S.C. section 638, to assist companies that have developed new commercialization-ready technologies to reach production and create manufacturing jobs in the commonwealth. Said matching grants shall be used to create manufacturing jobs and may be used for, without



limitation, the creation of, and capital improvements for, production facilities, workforce training, product marketing and purchasing infrastructure for product manufacturing. Said matching grants shall be distributed to eligible companies that have commercialization-ready technologies developed with assistance from the Small Business Administration in the form of \$1 in matching funds for every \$1 granted from the small business innovation research phase IIB grants, phase III grants and the commercialization pilot project established by 15 U.S.C. section 638. Said matching grants shall be awarded in consultation with the Small Business Association of New England. No such grant to any company shall exceed \$500,000 annually and the center shall make no such qualified loan, grant or other investment unless: (1) said loan, grant or investment has been approved by a majority vote of the board; (2) the center finds that, to the extent possible, a definite benefit to the commonwealth's economy may reasonably be expected from said qualified loan, grant or investment; provided, however, that in evaluating a request or application for funding, the center shall consider whether: (i) the loan, grant or investment shall stimulate increased financing for life sciences and high technology research and development, manufacturing and commercialization; (ii) the enterprise has a reasonable chance of success; (iii) center participation is necessary; (iv) the enterprise has the reasonable potential to create a substantial amount of new employment in the commonwealth; (v) the principals of the enterprise have made or are prepared to make a substantial financial and time commitment to the enterprise; (vi) binding commitments have been made to the center by the enterprise for adequate reporting of financial data to the center, which shall include a requirement for an annual or other periodic audit of the books of the enterprise, and for such control on the part of the center as the board shall consider prudent over the management of the company to protect the investment of the center including the board's right to access, without limitation, financial and other records of the enterprise; and (vii) a reasonable effort has been made to find a professional investor to invest in the enterprise and whether such effort was unsuccessful; and (3) said loan, grant or other investment conforms with rules approved by the board.

Said rules shall define life sciences technology and high technology for purposes hereof; provided, however, that such definition shall include companies engaging in research and development, commercialization or manufacturing in the commonwealth. Said rules shall establish the terms and conditions for investments which constitute qualified investments, and may include, but not be limited to, loans, guarantees, loan insurance or reinsurance, equity investments or other financing or credit enhancing devices, as made by the center directly or on its own behalf or in conjunction with other public instrumentalities, private institutions or the federal government. Said rules shall establish the terms, procedures, standards and conditions which the center shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities for the citizens of the commonwealth, oversee the progress of qualified investments and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified investments. Said rules shall provide that each recipient of a qualified investment

shall be required to pay a fee as a condition of such receipt, and said fee may take the form of points, an interest rate premium or a contribution of warrants or other forms of equity or consideration to the fund. Said rules shall provide for negotiated agreements between the center and each recipient of a qualified investment regarding the terms and conditions by which the fund's support thereof could be reduced or withdrawn.

(d) The center may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors regarding the terms of any such investments including, but not limited to, the rights of such investors to participate in the income or appropriation of the fund. To further the objective of securing investments by private institutions or investors in the activities of the fund pursuant to the preceding sentence, the center may develop a proposal relative to the creation of a separate investment entity which shall permit the commingling of the fund's resources with the maximum participation by such private institutions or investors consistent with the public purpose of the fund and under the terms and conditions established to protect and preserve the assets of the fund; provided, however, that if the creation or operation of such a separate entity would require additional or clarifying amendments to the enabling act of the center, said proposal shall include proposed statutory language with regard thereto. Any additional clarifying amendments to the enabling act shall be submitted by the center to the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies.

(e) Copies of the approved rules, and any modifications thereto, shall be submitted to the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies.

(f) Qualified investment transactions made by the center pursuant to the provisions of this section shall not, except as specified in this chapter, be subject to the provisions of chapter 175, or any successor thereto, and shall be payable solely from the Massachusetts Small Business Matching Grant Fund, established by this section and shall not constitute a debt or pledge of the full faith and credit of the commonwealth, the center or any subdivision of the commonwealth.

(g) The center shall not make expenditure from or commitment of the assets of the fund including, but not limited to, the making of qualified investments secured by the fund, if following the making of said qualified investment, the amount of the fund shall be less than the minimum requirement established by the board.

(h) The center shall develop a plan ensuring that fund disbursements made pursuant to this section shall be distributed throughout all regions of the commonwealth.

Section 10. (a) There shall be established and placed within the center a fund to be known as the Massachusetts Life Sciences Education Fund, hereinafter in this section referred to as the fund, to be held by the center separate and apart from its other funds. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the



general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the center, any pension funds, federal grants or loans, royalties or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments as defined by the center, secured or held by the fund and any other monies which may be available to the center for the purposes of the fund from any other source or sources. Any revenues, deposits, receipts, or funds received through the receipt of royalties, interest, dividends, or the sale of equity instruments shall be deposited in the fund, and shall be available to the center for the purposes described in this section, without further appropriation. All available moneys in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(b) The center shall invest and reinvest the fund and the income thereof only as follows: (1) making qualified grants pursuant to subsection (c); (2) investing any funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (3) paying binding obligations associated with such qualified investments which shall be secured by the fund as the same become payable; and (4) paying principal or interest on qualified investments secured by the fund or paying any redemption premium required to be paid when such qualified investments shall be redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement thereof established by the center, except for the purpose of paying binding obligations associated with qualified investments which are secured by the fund as the same become payable.

(c) The fund shall be held and applied by the center to make qualified grants to vocational and technical schools for purchasing or leasing necessary equipment to train students in life sciences technology and research; provided, however, that the center shall make no such qualified grants unless: (1) said grant has been approved by a majority vote of the board; (2) the grant recipient shall be a vocational technical school; provided, however, that if funds remain after consideration of grant applications submitted by vocational technical schools, the center may make qualified grants to community colleges established by chapter 15A or any other general or special law; (3) the grant recipient has identified and properly trained instructors to use the equipment to be purchased or leased; and (4) said qualified grants conform with the rules approved by the board.

Said rules shall set the terms and conditions for grants which constitute qualified grants and shall set forth the terms, procedures, standards and conditions which the center shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities for the citizens of the commonwealth, oversee the progress of qualified grants,



and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified grants.

(d) The center may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors regarding the terms of any such investments including, but not limited to, the rights of such investors to participate in the income or appropriation of the fund. To further the objective of securing investments by private institutions or investors in the activities of the fund as established in the preceding sentence, the center may develop a proposal relative to the creation of a separate investment entity which shall permit the commingling of the fund's resources with the maximum participation by such private institutions or investors in a manner consistent with the public purpose of the fund and under terms and conditions established to protect and preserve the assets of the fund.

(e) Copies of the approved rules, and any modifications thereto, shall be submitted to the clerks of the house of representatives and the senate and shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies.

(f) Qualified grants and investment transactions made by the center pursuant to the provisions of this section shall not, except as specified in this chapter, be subject to the provisions of chapter 175, or any successor thereto, and shall be payable solely from the Massachusetts Life Sciences Education Fund, established by this section and shall not constitute a debt or pledge of the full faith and credit of the commonwealth, the center or any subdivision of the commonwealth.

(g) The center shall not make expenditure from or commitment of the assets of the fund including, but not limited to, the making of qualified investments secured by the fund, if following the making of said qualified investment, the amount of the fund shall be less than the minimum requirement established by the board.

Section 11. (a) The center, in consultation with the advisory board established by section 12, shall identify 1 existing life sciences entity with experience facilitating local or regional life science industry sectors to serve as a regional technology and innovation center in each of the following 5 regions: western Massachusetts, central Massachusetts, northeastern Massachusetts, southeastern Massachusetts and metropolitan Boston.

(b) The purpose of each regional technology and innovation center shall include, but shall not be limited to: (i) encouraging and facilitating collaboration between existing organizations dedicated to promoting the regional life science industry; (ii) inputting regional life science industry and educational data, including the documentation of regional lab space, into the life sciences industry database as designed and maintained by the center; (iii) organizing, facilitating and implementing regional workforce development initiatives; (iv) providing business management and resource training, including the dissemination of best business practices; (v) facilitating public and private investment; (vi) reviewing and providing recommendations to the center proposals; (vii) identifying property conducive to regional life science industry expansion; (viii) investigating and identifying specific regions

or municipalities that have the potential to be developed into a life sciences cluster; and (ix) facilitating the regional development and implementation of section 10A of chapter 23A.

(c) The executive director, or his equivalent, of the 5 regional technology and innovation centers shall meet from time to time with the center to exchange information; identify regional needs including, but not limited to, any assistance needed in fulfilling the regional centers' purposes as provided in subsection (b); and advise the center on the effectiveness of programs administered by the center.

(d) Each regional technology and innovation center shall provide an annual report to the center containing such information as may be required by the center to evaluate the progress of each regional center. The center may withdraw a designation as a regional technology and innovation center if a regional center does not satisfactorily meet the purposes of subsection (b), and as provided in any rules, regulations or guidelines established by the center.

Section 12. There shall be an 18-member advisory board to be appointed by the governor to advise the center. The members shall include: 10 of whom shall be active members of the Massachusetts Life Sciences Collaborative, at least 2 of whom shall represent small businesses; 5 of whom shall be the chancellors at the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, or their designees; and 3 of whom shall be patient advocates with significant interaction or experience in the life sciences. The secretary of labor and workforce development or his designee, and the 5 executive directors of the regional technology and innovation centers, established pursuant to section 11, shall serve as ex-officio, non-voting members of the advisory board.

Each member shall serve for a term of 3 years, except that in making his initial appointments, the governor shall appoint 5 members to serve for a term of 1 year, 3 members to serve for a term of 2 years, 5 members for a term of 3 years. Any person appointed to fill a vacancy in the office of a member of the advisory board shall be appointed in a like manner and shall serve for only the unexpired term of the member who vacated. Members shall be eligible for reappointment. Any member may be removed by the governor for cause. The advisory board shall meet at least bi-annually, but shall meet as often as the members shall determine, or at such other intervals as established by the executive director to review recommendations made by the board. The members of the advisory board shall serve without compensation, but each member shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

The duties of the advisory board shall be to advise the center and the board concerning: research and development in the life sciences; development of products and the effectiveness of public and private initiatives to further product development; manufacturing and commercialization of biotechnology, pharmaceuticals, medical diagnostic products or such other areas within the life sciences; identifying candidates and providing recommendations for the 5 regional technology and innovation centers as established in section 11; and any other area as requested by the board.

The advisory board shall not be a state agency for the purposes of chapter 268A and shall not be subject to section 11A½ of chapter 30A or chapter 66.

Section 13. The center shall develop a comprehensive, internet-based life sciences sector database for the organization of all relevant information, as determined by the center, related to the life sciences sector in the commonwealth. Access to said database shall be limited at the discretion of the center's executive director. Any documentary materials or data received by the center from any entity, private or public, for the express purpose of adding information to the life science database shall be exempt from section 10 of chapter 66 and the board may hold any discussion or consideration of database materials in executive session closed to the public, notwithstanding the provisions of section 11A½ of chapter 30A, but the purpose of any such executive session shall be set forth in the official minutes of the center and business not directly related to such purpose shall not be transacted nor shall any vote be taken during such executive session.

Section 14. (a) The exercise of the powers granted by this chapter shall be for the benefit of the people of the commonwealth and for the improvement of their health and living conditions; and as the operation of the center shall constitute the performance of essential governmental functions, the center shall not be required to pay any taxes or assessments, except as otherwise provided by this chapter, and the notes or bonds issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, at all times shall be free from taxation by and within the commonwealth.

(b) The lands and tangible personal property of the center shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments.

Section 15. The center shall annually complete a detailed report setting forth its operations and accomplishments; its receipts and expenditures during such fiscal year; its assets and liabilities at the end of its fiscal year; the anticipated return on investment to the commonwealth from the investment of funds administered by the center during such fiscal year; a complete report detailing all companies classified as a certified life sciences company; a complete list of grants awarded by the center; a list of other funding activities; reports of patents or products resulting from funded activities; the status of construction of any real estate project resulting from certification, including whether construction is on-time and on-budget; and a tracking of job creation as a result of funded projects. The center shall annually submit the report to the governor, the secretary of administration and finance, the state comptroller and the clerks of the house of representatives and senate, who shall forward the same to the house and senate committee on ways and means and the joint committee on economic development and emerging technologies on or before October 1. The report shall be posted on the internet in a manner accessible to the public.

Section 16. The books and records of the center shall be subject to a biennial audit by the auditor of the commonwealth.

Section 17. (1)(a) Notwithstanding the provisions of chapter 32, or of any general



or special law to the contrary, the center shall establish 1 or more optional retirement programs that qualify under section 401, 408 or 457 of Internal Revenue Code, as may be amended from time to time, or contracts providing retirement and death benefits may be purchased by employees of the center who elect to participate in the program. The benefits offered to employees of the center in such optional retirement program shall be provided through such custodial accounts or individual or group annuity contracts, which may be fixed or variable in nature, or a combination thereof; provided, that at all times, those annuity contracts issued by licensed insurers under the optional retirement program shall provide the minimum values and guarantees required by the laws governing such contracts in the commonwealth; and provided, further, that the benefits shall be payable only to employees of the center in the program or their beneficiaries, and such benefits shall be paid only by the selected providers in accordance with the terms of the custodial accounts, annuity contracts or certificates providing coverage to the employee of the center; and provided, further, that such optional retirement program shall not allow an employee of the center to withdraw contributions while an active participant in the center's optional retirement program.

(b) The center shall select at least 2 but no more than 4 providers for the optional retirement program and enter into contracts with them in accordance with the laws governing the procurement of services for executive agencies of the commonwealth, provided, further, that the selected providers shall be authorized to conduct business within the commonwealth, and each and every provider or issuer of annuity contracts under the optional retirement program which is a life insurance company shall hold a certificate of authority to do life insurance business in the commonwealth, maintain the minimum required capital and surplus required for life insurance companies under the laws of the commonwealth, be a member of the commonwealth's life and health insurance guaranty association and be a member of the life and health insurance guaranty associations in any and all jurisdictions where required by law with similar retirement programs funded in whole or in part through the provider's annuities in which employees of the center participating in the optional retirement program may participate upon transfer of employment; and provided, further, that said board shall coordinate the transfer of funds and information between payroll centers, the selected providers and employees of the center participating in the plan.

(2)(a) Participation in the optional retirement program provided by this section shall be limited to employees of the center who are otherwise eligible for membership in the state employees' retirement system as established under the provisions of chapter 32.

(b) Elections to participate in the optional retirement program shall be made as follows:

(i) Any eligible employee of the center who is initially appointed on or after the effective date of the optional retirement program may elect in writing to participate in the optional retirement program within 90 days of the effective date of the appointment. Any such election shall be effective as of the effective date of appointment. If an eligible employee of the center fails to make an election as provided in this paragraph, such employee

shall become a member of the state employees' retirement system established under the provisions of said chapter 32.

(ii) Any eligible employee of the center who is a member of any retirement system established by the provisions of said chapter 32 on the effective date of the optional retirement program but who has less than 10 years of creditable service on the effective date of the optional retirement program may elect in writing to participate in the optional retirement program within 90 days after the effective date of the optional retirement program. Any such election shall become effective on the first day of the next pay period following such election, and shall constitute a waiver of all retirement benefits to which the individual may be entitled as an employee under any retirement system established under the provisions of said chapter 32.

(iii) Any employee of the center who is a member of any retirement system established by the provisions of said chapter 32 but who has less than 10 years of creditable service on the date such employee becomes eligible to participate in the optional retirement program may elect in writing to participate in such optional retirement program within 90 days of the date said employee becomes eligible. Any such election shall become effective on the first day of the next pay period following such election, and shall constitute a waiver of all retirement benefits to which the individual may be entitled as an employee under any retirement system established by the provisions of said chapter 32.

(iv) Any eligible employee of the center electing to participate in the optional retirement program shall be ineligible for membership in the state employees' retirement system while he remains continuously employed by the center; provided, that the election by an eligible employee to participate in the optional retirement program shall be irrevocable while the employee continues to meet the eligibility requirements; provided, however, that if an employee becomes ineligible to continue in the optional retirement program, the employee shall thereafter participate in the state employees' retirement system established in accordance with the provisions of said chapter 32.

(3)(a) Any eligible employee of the center electing to participate in the optional retirement program shall not be required to make contributions to the state employee's retirement system but shall contribute to the optional retirement program an amount equal to the contribution which would have been required had such employee been a member of the state employees' retirement system.

(b) For each eligible employee of the center electing to participate in the optional retirement program, the center shall contribute an amount equal to 5 per cent of each employee's regular compensation, as defined in section 1 of chapter 32, to the optional retirement program and a plan established to provide life and disability benefits to all participants in the program; provided, however, that not more than 1 per cent of said contribution shall be made to the plan established to provide said life and disability benefits; provided, further, that the balance of said contribution shall be remitted to the appropriate provider for application to the participating employee's contract or custodial account, less any monthly fees established by the board in order to cover the reasonably necessary direct



costs incurred by the board in establishing and administering the plan.

(c) If any eligible employee of the center is a member of any retirement system established by the provisions of said chapter 32 at the time such employee elects to participate in the optional retirement program, the employee may direct that the amount of the accumulated total deductions, and any interest to which the employee would be entitled under said chapter 32 if the employee withdrew from the system, credited to such employee's account in such retirement system be transferred directly to such employee's account in the optional retirement program. Any such transfer shall be made in the form of a direct trustee-to-trustee transfer in compliance with the requirements of subchapter D of chapter 1 of the Internal Revenue Code.

(d) The funds accumulated under the optional retirement program shall be exempt from taxation. The rights of a participant to a custodial account, an annuity, the annuity contracts or certificates providing coverage to participants, and all right in and to the funds accumulated under the custodial accounts, annuity contracts or certificates shall be exempt from taxation, including income taxes levied under the provisions of said chapter 62. No assignment of any right in or to any funds or annuities under the optional retirement program shall be valid except such assignment as may be made for the purpose of making restitution in the case of dereliction from duty by any participant as established in section 15 of said chapter 32 if such assignment does not violate the restrictions of the Internal Revenue Code; provided that nothing in this section shall prevent a participant's custodial account or annuity from being attached, taken on execution, assigned, or subject to other process to satisfy a support order under chapters 208, 209, or 273 if such order constitutes a qualified domestic relations order under the terms of the Internal Revenue Code.

(e) Any eligible employee of the center enrolled in the optional retirement program who retires and wishes to retain his group insurance coverage as provided in chapter 32A, or retires and wishes to enroll in group insurance coverage pursuant to said chapter 32A, may do so in the same manner, and subject to the same limitations and requirements as an active employee member of the state employees' retirement system. Any eligible employee of the center enrolled in the optional retirement program who retains or enrolls in the group insurance coverage upon retirement shall be deemed to have authorized his optional retirement program plan provider to deduct from the retired employees account, on a monthly basis, and forward to the group insurance commission, an amount equal to the retired employee's share of the premium as set by said chapter 32A and each annual appropriation act. Each optional retirement program plan provider shall be required to deduct and forward said premium amounts, as determined by the group insurance commission, to the group insurance commission in advance of the month for which the premium is due and in a manner as may be prescribed by the group insurance commission. For group insurance commission purposes employees who were members of the state retirement system when they became eligible to participate in the optional retirement program, and who then enrolled in the optional retirement program, may add their time in the state retirement system to their time in the optional retirement program in determining years of creditable service.



(f) No contribution shall be made under any provision of this section in excess of, or on the basis of compensation in excess of, any limitation that may be imposed pursuant to federal law including, but not limited to, the limitations in 26 U.S.C. sections 401(a)(17), 402(g), 403(b) and 415, to the extent such limitations apply. The center may adopt rules and regulations as it deems necessary to carry out the purposes of this section including, but not limited to, rules or regulations establishing such limitations only when it determines that such limitations are necessary to comply with applicable provisions of the Internal Revenue Code.

**SECTION 14.** Section 5 of said chapter 23I, as appearing in section 14, is hereby amended by striking out subsection (d).

**SECTION 15.** Section 1 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “connector”, in line 211, the following words:- , the Massachusetts Life Sciences Center, except those employees of the center opting to participate in an optional retirement plan established by the center pursuant to section 17 of chapter 23I.

**SECTION 16.** Section 2 of chapter 32A of the General Laws is hereby amended by inserting after the word “authority”, in line 12, as so appearing, the following words:- , the Massachusetts Life Sciences Center.

**SECTION 17.** Section 6 of chapter 62 of the General Laws, as most recently amended by section 4 of chapter 63 of the acts of 2007, is hereby further amended by adding the following 2 subsections:-

(m) (1) As used in this subsection and in subsection (n), the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Life sciences”, advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science.

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

“Primarily”, more than 50 per cent.

“Research and development costs”, in-house research expenses within the meaning of section 41(b)(2) of the Internal Revenue Code.

“Taxpayer”, a certified life sciences company or person subject to the taxes imposed by chapters 62, 63, 64H or 64I.

“User fees”, the monetary amount actually paid by a taxpayer to the U.S.F.D.A. that constitutes the fee due upon the submission of a human drug application or supplement pursuant to 21 U.S.C. section 379h(a)(1) for a human drug, the research and development costs of which, were primarily incurred in the commonwealth.

“U.S.F.D.A.”, the United States Food and Drug Administration.

(2) A taxpayer may, to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, take a credit against the taxes imposed by this chapter in an amount equal to 10 per cent of the cost of qualifying property acquired, constructed, reconstructed or erected during the taxable year and used exclusively in the commonwealth.

Qualifying property shall be tangible personal property and other tangible property including buildings and structural components of buildings acquired by purchase, as defined by section 179(d) of the Internal Revenue Code, as amended and in effect for the taxable year, but not including property that is taxable under chapter 60A; provided, however, that such property shall be depreciable under section 167 of the Internal Revenue Code and have a useful life of 4 years or more. With respect to property which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this paragraph which represents the ratio which the months of qualified use bear to the months of useful life. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back as additional taxes due in the year of disposition; provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit, as provided in this paragraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the months of useful life. For the purposes of this paragraph, useful life of property shall be the same as that used by the corporation for depreciation purposes when computing federal income tax liability.

A taxpayer taking a credit allowed under this subsection may not take the credit allowed by subsection (g) except to such extent, not to exceed 2 per cent of the cost of any qualifying property, as may be provided in a certification pursuant to said section 5 of chapter 23I.

Nothing in this section shall limit the authority of the commissioner to make adjustments to a taxpayer's liability upon audit or limit any other legal remedies available to the commissioner or the commonwealth against said taxpayer.

(3) Any taxpayer entitled to a credit under this section for any taxable year may, to the extent authorized pursuant to the life sciences tax incentive program established by said section 5 of said chapter 23I, carry over and apply to its tax for any 1 or more of the next succeeding 10 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

(4) The commissioner in consultation with the Massachusetts Life Sciences Center established by section 3 of chapter 23I, shall promulgate regulations necessary for the administration of this subsection; provided, further, that said regulations may provide the adjustment of intercompany prices and elimination of intercompany transactions to ensure

that all amounts upon which the credit is based reasonably reflect fair market value; and provided, further, that said regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

(5) If a credit allowed under this subsection, or such credit as may be allowed under subsection (g) as limited in this subsection, exceeds the tax otherwise due under chapter 62, 90 per cent of the balance of such credit may, at the option of the taxpayer and to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, then the credit carryover provisions of paragraph (3), and paragraph (2) of subsection (g), shall not apply.

(n) (1) Except as otherwise limited by subsection (4), a taxpayer may, to the extent authorized pursuant to the life sciences tax incentive program established by said section 5 of said chapter 23I, be allowed a refundable credit against the tax liability imposed under this chapter in an amount equal to 100 per cent of the cost of user fees paid by such taxpayer.

(2) A taxpayer shall claim the credit in the taxable year in which its application for the licensure of an establishment to manufacture the human drug in the commonwealth is approved by the U.S.F.D.A.

(3) If a credit allowed to a taxpayer exceeds the tax otherwise due under chapter 62, 90 per cent of the balance of that credit may, to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of said chapter 23I, be refundable to the taxpayer for the taxable year in which the credit is claimed.

(4) The deduction from gross income that may be taken with respect to any expenditures qualifying for the credit under this section shall be disallowed to the extent of the credit.

(5) Only user fees paid by a taxpayer to the U.S.F.D.A. on or after the effective date of this section shall be eligible for the credit.

**SECTION 18.** Said section 6 of said chapter 62 is hereby further amended by striking out subsections (m) and (n), inserted by section 17.

**SECTION 19.** Section 30 of chapter 63 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

17. Notwithstanding the last sentence in subparagraph (b) of paragraph 5, to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, losses sustained in any taxable year by a taxpayer engaged in business as a life sciences company as defined by section 2 of chapter 23I may, to the extent approved pursuant to said life sciences tax incentive program, be carried forward for not more than 15 years; provided, however, that said losses shall not be carried back.

**SECTION 20.** Said section 30 of said chapter 63 is hereby further amended by striking out paragraph 17, inserted by section 19.

**SECTION 21.** Said chapter 63 is hereby further amended by inserting after section 31L the following section:-



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

“Life sciences”, advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science.

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

“Primarily”, more than 50 per cent.

“Research and development costs”, in-house research expenses within the meaning of section 41(b)(2) of the Internal Revenue Code.

“Taxpayer”, a certified life sciences company or person subject to the taxes imposed by chapters 62, 63, 64H or 64I.

“User fees”, the monetary amount actually paid by a taxpayer to the U.S.F.D.A. that constitutes the fee due upon the submission of a human drug application or supplement pursuant to 21 U.S.C. section 379h(a)(1) for a human drug, the research and development costs of which, were primarily incurred in the commonwealth.

“U.S.F.D.A.”, the United States Food and Drug Administration.

(b) Except as otherwise limited by subsection (e), a taxpayer may, to the extent authorized pursuant to the life sciences tax incentive program established by said section 5 of chapter 23I, be allowed a refundable credit against the tax liability imposed under this chapter in an amount equal to 100 per cent of the cost of user fees paid by such company.

(c) A taxpayer shall claim the credit in the taxable year in which its application for the licensure of an establishment to manufacture the human drug in the commonwealth is approved by the U.S.F.D.A.

(d) The credit allowed may reduce the excise due under subsection (b) of section 32, or subsection (b) of section 39. The credit allowed to a taxpayer shall not be subject to the provisions of section 32C. Where such credit allowed to a taxpayer exceeds the excise otherwise due under said subsection (b) of section 32 or subsection (b) of said section 39, 90 per cent of the balance of that credit may, at the option of the taxpayer and to the extent authorized pursuant to the life sciences tax incentive program established by said section 5 of said chapter 23I, be refundable to the taxpayer for the taxable year in which the credit is claimed.

If a taxpayer files as a member of a combined group and applies its excess credit against the excise of another group member, then the credit as applied to corporations other than such taxpayer is not subject to section 32C and may reduce to zero the excise due under subsection (b) of section 32, or subsection (b) of section 39 and under any act in addition thereto. Where such credit allowed to a taxpayer that is applied against the excise liability

of such other corporations exceeds the excise otherwise due to such corporations under this chapter, 90 per cent of the balance of that credit may, at the option of the taxpayer and to the extent authorized pursuant to the life sciences tax incentive program, be refundable to the taxpayer for the taxable year in which the credit is claimed.

(e) For the purposes of section 30, the deduction from gross income that may be taken with respect to any expenditures qualifying for the credit under this section is disallowed to the extent of the credit.

(f) Only user fees paid by a taxpayer to the U.S.F.D.A. on or after the effective date of this section shall be eligible for the credit.

**SECTION 22.** Section 31M of said chapter 63 is hereby repealed.

**SECTION 23.** Section 38 of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 162, the word “and”.

**SECTION 24.** Said section 38 of said chapter 63, as so appearing, is hereby further amended by inserting after the word “contracts”, in line 169, the following:- ; and (6) to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, a certified life sciences company, as defined by section 5 of chapter 23I, may be deemed to be taxable in the state of the purchaser if the property of the project is delivered or shipped to a purchaser in another state.

**SECTION 25.** Said section 38 of said chapter 63 is hereby further amended by striking out clause (6), inserted by section 24.

**SECTION 26.** Section 38C of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

To the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, a certified life sciences company may be deemed a research and development corporation for purposes of exemptions under chapters 64H and 64I.

**SECTION 27.** Said section 38C of said chapter 63 is hereby further amended by striking out the fourth paragraph, inserted by section 26.

**SECTION 28.** Section 38M of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by adding the following subsection:-

(j)(1) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Life sciences”, advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science.

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

“Taxpayer”, a certified life sciences company or person subject to the taxes imposed by chapter 62, 63, 64H or 64I.

(2) If a credit claimed under this section by a taxpayer exceeds the amount that may otherwise be allowed under this section for a taxable year, 90 per cent of the balance of that credit may, at the option of the taxpayer and to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, be refundable to the taxpayer for the taxable year. If such credit balance is refunded to the taxpayer, then the credit carryover provisions of paragraph (f) shall not apply.

**SECTION 29.** Said section 38M of said chapter 63 is hereby further amended by striking out paragraph (j), added by section 28.

**SECTION 30.** Said chapter 63 is hereby further amended by inserting after section 38T the following 3 sections:-

Section 38U. (a) As used in this section, section 38V and section 38W, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Life sciences”, advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science.

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

“Taxpayer”, a life sciences company or person subject to the taxes imposed by this chapter or chapter 62, 64H or 64I.

(b) A taxpayer may, to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, take a credit against the taxes imposed by this chapter in an amount equal to 10 per cent of the cost of qualifying property acquired, constructed, reconstructed or erected during the taxable year and used exclusively in the commonwealth.

Qualifying property shall be tangible personal property and other tangible property including buildings and structural components of buildings acquired by purchase, as defined under section 179(d) of the Code, as amended, and in effect for the taxable year, but not including property that is taxable under chapter 60A; provided, however, that such property shall be depreciable under section 167 of the Code and shall have a useful life of 4 years or more.

With respect to property which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in this paragraph which represents the ratio which the months of qualified use bear to the months of useful life. If property on which credit has



been taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back as additional taxes due in the year of disposition; provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than twelve consecutive years, it shall not be necessary to add back the credit, as provided in this paragraph. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the months of useful life. For the purposes of this paragraph, useful life of property shall be the same as that used by the corporation for depreciation purposes when computing federal income tax liability.

The credit allowed under this section may be taken by an eligible corporation; provided, however, that neither credit allowed by section 31A nor section 31H is taken by such corporation; and provided, further, that the credit allowed by section 38N shall not be taken except to such extent, not to exceed 2 per cent of the cost of any qualifying property.

Nothing in this section shall limit the authority of the commissioner to make adjustments to a taxpayer's liability upon audit or limit any other legal remedies available to the commissioner or the commonwealth against said taxpayer.

(c) The credit allowed by this section shall not be subject to section 32C.

(d) If a taxpayer that is subject to a minimum excise under this chapter, the amount of the credit allowed by this section shall not reduce the excise to an amount less than such minimum excise.

(e) A taxpayer entitled to a credit under this section for any taxable year may, to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, carry over and apply to its excise for any 1 or more of the next succeeding 10 taxable years, the portion, as reduced from year to year, of those credits which were not allowed by subsection (c) or which exceed the excise for the taxable year.

(f) For corporations filing a combined return of income under section 32B, a credit generated by an individual member corporation under this section shall first be applied against the separately determined excise attributable to that member, subject to the limitations of subsection (d). A member corporation with an excess credit may apply its excess credit against the excise of another group member, to the extent that such other member corporation may use additional credits under the limitation of paragraph (d). Unused, unexpired credits generated by member corporations shall be carried over from year to year by the individual corporation that generated the credit.

(g) The commissioner shall promulgate regulations necessary to implement this section. Said regulations may provide for the adjustment of intercompany prices and elimination of intercompany transactions to ensure that all amounts upon which the credit is based reasonably reflect fair market value and shall include provisions to prevent the generation of multiple credits with respect to the same property.

(h) If a credit allowed to a taxpayer under this section, or such credit as may be allowed under section 38N of this chapter as limited in this subsection, exceeds the excise otherwise due under this chapter, 90 per cent of the balance of such credit may, at the option

of the taxpayer and to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, the credit carryover provisions of subsection (e) and said section 38N shall not apply.

Section 38V. A taxpayer which is a certified life sciences company pursuant to section 5 of chapter 23I may, to the extent authorized pursuant to the life sciences tax incentive program established by said section 5 of chapter 23I, be allowed a deduction under paragraph 4 of section 30 for that portion of qualified clinical testing expenses paid or incurred for the taxable year equal to the amount of the credit allowable for the taxable year under section 45C of the Internal Revenue Code and otherwise disallowed as a deduction under section 280C(b) of said Code.

Section 38W. (a) A taxpayer may, to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, be allowed a credit against its excise due under this chapter equal to the sum of 10 per cent of the excess, if any, of the qualified research expenses for the taxable year, over the base amount, and 15 per cent of the basic research payments determined pursuant to section 41(e)(1)(A) of the Internal Revenue Code. The terms “qualified research expenses”, “base amount”, “qualified organization base period amount”, “basic research” and any other terms affecting the calculation of the credit shall, unless the context otherwise requires or unless otherwise stated in this section, have the same meanings as under said section 41 of said Code.

In determining the amount of the credit allowable under this section, the commissioner of revenue may aggregate the activities of all corporations that are members of a controlled group of corporations, as defined by 41(f)(1)(A) of said Code, and may aggregate the activities of all entities, whether or not incorporated, that are under common control, as defined in section 41(f)(1)(B) of said Code.

(b) For a qualified life science company, research and development costs, within the meaning of section 41 of said Code, shall include, to the extent they relate to legally mandated clinical trial activities, those qualified research expenditures that are performed both inside and outside of the commonwealth.

(c) For purposes of section 30, the deduction from gross income that may be taken with respect to any expenditures qualifying for a credit under said section 41 of said Code shall be based upon its cost less the credit allowable under this section; provided, however, that section 280C(c) of said Code shall not apply.

(d) The credit allowed hereunder for any taxable year shall not reduce the excise to less than the amount due under subsection (b) of section 32, subsection (b) of section 39, section 67 or under any other general or special law.

(e) The credit allowed under this section shall be limited to 100 per cent of a corporation’s first \$25,000 of excise, as determined before the allowance of any credits, plus 75 per cent of the corporation’s excise, as so determined in excess of \$25,000. The commis-

sioner of revenue shall promulgate regulations similar to those authorized under section 38(c)(2)(B) of the Internal Revenue Code for purposes of apportioning the \$25,000 amount among members of a controlled group. Nothing in this section shall alter section 32C, as it affects other credits under this chapter.

(f) If a corporation files a combined return of income under section 32B, a credit generated by an individual member corporation under this section shall first be applied against the excise attributable to that company under sections 32 or 39, subject to the limitations of subsections (d) and (e). A member corporation with an excess research and development credit may apply its excess credit against the excise of another group member if such other member corporation may use additional credits under the limitations of said subsections (d) and (e). Unused, unexpired credits generated by a member corporation shall be carried over from year to year by the individual corporation that generated the credit and shall not be refundable. Nothing in this section shall alter subsection (h) of section 31A.

(g) A corporation entitled to a credit under this section for any taxable year may carry over and apply to its excise for any of the next succeeding 15 taxable years that portion, as reduced from year to year, of its credit which exceeds its excise for the taxable year. A corporation may carry over and apply to its excise for any subsequent taxable year that portion, as reduced from year to year, of those credits which were not allowed by subsection (f).

(h) The commissioner of revenue shall promulgate regulations necessary to carry out this section.

**SECTION 31.** Sections 38U, 38V and 38W of said chapter 63 are hereby repealed.

**SECTION 32.** Section 42B of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

To the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, a certified life sciences company may be deemed a research and development corporation for purposes of exemptions under chapters 64H and 64I.

**SECTION 33.** Said section 42B of said chapter 63 is hereby further amended by striking out the last paragraph, added by section 32.

**SECTION 34.** Section 6 of chapter 64H of the General Laws, as amended by section 12 of chapter 63 of the acts of 2007, is hereby further amended by adding the following paragraph:-

(xx) (1) Sales of tangible personal property purchased for a certified life sciences company, to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, for use in connection with the construction, alteration, remodeling, repair or remediation of research, development or manufacturing facilities and utility support systems. Only purchases made on or after the effective date of this section shall be eligible for this exemption.

(2) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-



“Life sciences”, advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science.

“Life sciences company”, a business corporation, partnership, firm, unincorporated association or other entity engaged in life sciences research, development, manufacturing or commercialization in the commonwealth, and any affiliate thereof, which is, or the members of which are, subject to taxation under this chapter.

“Utility support systems”, all areas of utility support systems including, but not limited to, site, civil, mechanical, electrical and plumbing systems.

**SECTION 35.** Said section 6 of said chapter 64H is hereby further amended by striking out paragraph (xx), added by section 34.

**SECTION 36.** Notwithstanding any general or special law to the contrary, the University of Massachusetts at Dartmouth shall acquire from the Massachusetts Development Finance Agency the land and improvements thereon located at 151 Martine street in the city of Fall River together with the accessory parking lot owned by the Massachusetts Development Finance Agency located on the north side of Martine street, hereinafter collectively referred to as the Advanced Technology Manufacturing Center, for an amount not to exceed \$11,400,000 and pursuant to such other terms as the parties may mutually agree; provided, however, that said conveyance shall be approved by the board of trustees of the University of Massachusetts and the board of directors of Massachusetts Development Finance Agency. The conveyance shall be subject to a restrictive covenant prohibiting the University of Massachusetts at Dartmouth from occupying more than 60 per cent of the total square footage of the Advanced Technology Manufacturing Center at any time. The University of Massachusetts at Dartmouth shall retain any rent, license fees, appropriations, grants, fees, or such other monies earned in connection with owning and operating the Advanced Technology Manufacturing Center and shall apply such revenues solely to offset the costs associated with owning, operating, improving, leasing, licensing, managing and maintaining the land and improvements that constitute the Advanced Technology Manufacturing Center.

**SECTION 37.** Notwithstanding any general or special law to the contrary, the Massachusetts Life Sciences Center, established by section 3 of chapter 23I of the General Laws, in collaboration with the Massachusetts International Trade Council shall, subject to appropriation, facilitate and support joint academic and industrial research and development and commercial business exchanges between the commonwealth and Israel in the area of life sciences; provided, further, that subject to appropriation, there shall be established a trade and incubator facility in Israel and a trade and incubator facility in Massachusetts facilitated

by the Massachusetts International Trade Council in consultation with the Massachusetts office of international trade and investment, established by section 24 of chapter 23A of the General Laws, for collaborative, joint and pilot projects with the Government of the State of Israel, the Boston Haifa International Life Sciences Institute and other organizations working with Israel.

**SECTION 38.** Notwithstanding any general or special law to the contrary, the term of any member appointed prior to the effective date of this act to the board of directors of the Massachusetts Life Sciences Center, established by section 3 of chapter 23I of the General Laws, shall expire upon the effective date of this act; provided, however, that any appointed board member whose term has expired pursuant to this section shall be eligible for reappointment to the board. Such appointments shall be made in accordance with section 3 of chapter 23I of the General Laws.

**SECTION 39.** Notwithstanding any general or special law to the contrary, the Massachusetts Life Sciences Center established by section 3 of chapter 23I of the General Laws, in consultation with the department of agricultural resources, shall, subject to appropriation, establish a program to promote the research and development of plant-made pharmaceuticals and industrial products through field trials approved under a permit or approved notification by the Biotechnology Regulatory Service of the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

**SECTION 40.** Notwithstanding any general or special law to the contrary, the Massachusetts Life Sciences Center established by section 3 of chapter 23I of the General Laws, in conjunction with the office of the state treasurer, shall conduct an investigation and study of the feasibility of vetting and bundling life sciences enterprises for the purpose of securitization of enterprises to create investment opportunities to provide seed capital for enterprises. For the purposes of this study, "enterprise" shall be defined as a small business, as defined in chapter 40F of the General Laws, with its principal place of business in the commonwealth and which is, or proposes to be, engaged in manufacturing or research and development in the area of life sciences. Said center shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies on or before March 31, 2009.

**SECTION 41.** Notwithstanding any general or special law to the contrary, the Massachusetts Life Sciences Center, established by section 3 of chapter 23I of the General Laws, shall conduct an investigation and study the feasibility of increasing the number of clinical trials conducted or expediting the process of conducting clinical trials in the commonwealth, by life sciences companies in the commonwealth. Said center shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing



the same with the clerks of the house of representatives and the senate who shall forward the same to the house of representatives and the senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on public health and the joint committee on health care financing on or before March 31, 2009.

**SECTION 42.** Notwithstanding any general or special law to the contrary, the Massachusetts Life Sciences Center, established by section 3 of chapter 23I of the General Laws, shall conduct an investigation and study of ways to enhance coordination between the angel investor community, so-called, and the life science industry. Said center shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies on or before March 31, 2009.

**SECTION 43.** Notwithstanding any general or special law to the contrary, the Massachusetts Life Sciences Center, established by section 3 of chapter 23I of the General Laws, in conjunction with the appropriate state agencies, shall conduct an investigation and study to assess the feasibility of developing and implementing a program to engage and train community college students in the area of life sciences. Said center shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the joint committee on economic development and emerging technologies, the joint committee on education and the joint committee on labor and workforce development on or before June 30, 2009.

**SECTION 44.** Notwithstanding any general or special law to the contrary, the total administrative and operational expenses of the Massachusetts Life Sciences Center established by section 3 of chapter 23I of the General Laws shall not exceed \$3,750,000 for fiscal year 2009; provided, further that said center shall conduct an investigation and study the center's annual operating expenses including, but not limited to, lease payments, payroll and contracted costs, to be used by the legislature to calculate annual operating expenses for future fiscal years. Said center shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies on or before December 31, 2008.

**SECTION 45.** Notwithstanding any general or special law to the contrary, the department of revenue shall conduct an investigation and study including a detailed description and a numerical accounting of all tax incentives awarded to life sciences companies certified by section 5 of chapter 23I of the General Laws, including the value of tax incentives authorized pursuant to the life sciences tax incentive program, as established



by said section 5 of said chapter 23I, for each year for which the project was certified, and the value of tax incentives actually used as a result of the project. Said center shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on revenue annually on or before June 30. Such report shall be posted on the internet in a manner accessible to the public.

**SECTION 46.** To meet the expenditures necessary in carrying out the provisions of section 2B, the state treasurer shall, upon receipt of a request by 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, \$500,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Life Sciences Center Capital Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2033. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 47.** Notwithstanding any general or special law to the contrary, only certified life sciences projects authorized under section 5 of chapter 23I of the General Laws shall be eligible for the available capital funding provided in item 7002-0015 in section 2B.

**SECTION 48.** Notwithstanding any general or special law to the contrary, a private entity engaged in a construction, development, renovation, remodeling, reconstruction, rehabilitation or redevelopment project receiving funds pursuant to this act shall properly classify individuals employed on the project and shall comply with all laws concerning workers' compensation insurance coverage, unemployment insurance, social security taxes and income taxes with respect to all such employees. All construction contractors engaged by an entity on any such project shall furnish documentation to the appointing authority showing that all employees employed on the project have hospitalization and medical benefits that meet the minimum requirements of the connector board established in chapter 176Q of the General Laws.

**SECTION 49.** The value of any tax incentive award under the life sciences tax incentive program established in subsection (d) of section 5 of chapter 23I of the General Laws which extends beyond December 31, 2018, including carry-forwards of losses or credits, shall be taken into account during the year awarded and the full amount of such tax benefits potentially realized in periods after December 31, 2018 shall be counted against the annual ceilings for years ending prior to January 1, 2019. Tax incentives authorized pursuant

to the life sciences tax incentive program shall count toward this \$25,000,000 annual ceiling only if they are not otherwise available to a taxpayer.

**SECTION 50.** Notwithstanding any general or special law to the contrary, the sales tax exemption in paragraph (xx) in section 6 of chapter 64H of the General Laws shall apply to sales of tangible personal property purchased for a certified life sciences company established in section 5 of chapter 23I of the General Laws on or after the effective date of this act.

**SECTION 51.** Notwithstanding any general or special law to the contrary, eligibility for a tax credit on user fees under paragraph (2) of subsection (n) of section 6 of chapter 62 of the General Laws and under subsection (f) of section 31M of chapter 63 of the General Laws shall apply to user fees paid on or after the effective date of this act.

**SECTION 52.** Subsection (d) of section 5 of chapter 23I of the General Laws, as appearing in section 14, shall take effect on January 1, 2009.

**SECTION 53.** Sections 17, 19, 21, 24, 26, 28, 30, 32, and 34 shall take effect on January 1, 2009.

**SECTION 54.** Sections 18, 20, 22, 23, 25, 27, 29, 31, 33, and 35 shall take effect on December 31, 2018.

Approved June 16, 2008

## **Chapter 131. AN ACT AUTHORIZING THE CITY OF MELROSE TO ISSUE PENSION FUNDING BONDS OR NOTES.**

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

**SECTION 1.** The city of Melrose may issue bonds or notes for the purpose of funding all or a portion of the unfunded pension liability of the retirement system of the city of Melrose. Bonds or notes issued under this act shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws, shall be issued for terms not in excess of 30 years from their date of issue and, except as otherwise provided in this act, shall be subject to the applicable provisions of said chapter 44. The aggregate amount of bonds or notes which may be issued by the city under this act shall not exceed the amount which the retirement board of the city, with the approval of the city's chief financial officer, treasurer and city council, shall determine to be necessary to be issued to fund the unfunded pension liability of the retirement system of the city as of a particular date and to provide for issuance costs and other necessary or incidental expenses. The determination of the retirement board of the city of the unfunded pension liability shall be based upon the report of a nationally-recognized independent consulting firm, which shall be acceptable to the public employee retirement administration commission and which may be the consulting actuary generally retained by the retirement board of the city.

**SECTION 2.** The maturities of bonds or notes issued under this act: (i) shall be arranged so that for each issue, the annual combined payments of principal and interest shall be as nearly equal as practicable, in the opinion of the treasurer and mayor, or in accordance with a schedule providing for a more rapid amortization of the principal; or (ii) shall be arranged so that for each issue, the annual combined payments of principal and interest shall be in amounts specifically approved by the secretary for administration and finance.

**SECTION 3.** Proceeds of any bonds or notes issued under this act other than amounts to be applied to issuance costs or other expenses shall be paid by the city of Melrose to the retirement board of the city, shall be allocated solely to reduce the unfunded pension liability to which the bonds or notes relate, shall be invested in any investments which are permitted under chapter 32 of the General Laws and shall otherwise be held and expended by the retirement board of the city in accordance with the law.

**SECTION 4.** Before the issuance of any bonds or notes under this act, the city of Melrose shall submit to the executive office for administration and finance a plan showing the amount of the bonds and notes to be issued, the amount of the unfunded pension liability to be funded with the proceeds of the bonds and notes, the proposed maturity schedule of the bonds and notes, the proposed allocation of and plan to finance the principal of and interest on the bonds and notes, if any, the present value savings reasonably expected to be achieved as a result of the issuance 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 has approved the plan and specifically approved the maturity schedule of the bonds or notes if required by section 2. In granting the approval, the secretary shall require the establishment of a reserve to be created from a portion, not to exceed 60 per cent in any year, of the amount of the annual savings used to calculate the present value savings. Subject to the regulations established by the secretary, the reserve shall be held and controlled by the city and shall be separate from any other reserve or fund of the city allowed or required by statute. The secretary shall establish a method to calculate both the required amount of annual contribution to the reserve and the minimum value to be maintained in the reserve and shall prescribe conditions for expenditure from the reserve, including its use if necessary to prevent or limit any future unfunded actuarial pension liability, and the conditions under which all or a portion of the funds in the reserve may be available for unrestricted purposes, in which case such funds or portions thereof shall be transferred to the city treasury. Any funds in the reserve shall be trust funds under section 54 of chapter 44 of the General Laws and, except as otherwise provided in this act, shall be subject to the provisions of said section 54 of said chapter 44.

**SECTION 5.** If the unfunded pension liability to be funded with the proceeds of an issuance of bonds or notes issued under this act relates in part to employees of a governmental unit other than the city of Melrose, that governmental unit shall be responsible for reimbursing the city for the proportion of the annual debt service expense paid by the city for bonds or notes issued under this act that is equal to the proportion of the total unfunded



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pension liability to be funded with the proceeds of the bonds or notes as relates to that governmental unit. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each governmental unit other than the city by each such governmental unit's proportionate share of the annual debt service expense as determined in this act. The city shall have the same legal rights and authority as the retirement board of the city to collect any amount so assessed to any such governmental unit.

**SECTION 6.** Notwithstanding chapter 70 of the General Laws or any other general or special law to the contrary, the portion of the annual debt service paid by the city of Melrose for bonds or notes issued under this act applicable to school department personnel who are members of the city's retirement system shall be included in the computation of net school spending for the purposes of said chapter 70 or any other law.

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

Approved June 16, 2008

## Chapter 132. AN ACT ESTABLISHING A SPECIAL FUND IN THE TOWN OF MILLIS.

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

**SECTION 1.** Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Millis may establish a special account to be known as the Crestview Drive and Klifford Circle Public Way Layout Fund. There shall be credited to the fund all rent or other monies received by the town from the lease of a portion of town-owned land on assessor's map No. 52, parcels 11, 12, 15 and 19 and for a proposed cellular antennae site. Any interest earned on the account shall be credited to and become part of the fund.

**SECTION 2.** The amounts credited to the fund may, without further appropriation by the town, be expended by the board of selectmen only for the costs or payment of indebtedness incurred under section 7 of chapter 44 of the General Laws or any other general or special law, for plans for the layout of Crestview drive and Klifford circle as public ways and for the improvement of Crestview drive and Klifford circle; provided, however, that no payment or borrowing for the improvement of those roads shall be made until they shall have been laid out and accepted as public ways pursuant to sections 21 to 24, inclusive, of chapter 82 of the General Laws. The costs shall include, but not be limited to, paving and reconstruction of the road surfaces and appurtenances, the preparation of street acceptance plans and as-built plans, the setting and installation of bounds, and the acquisition of easements.

**SECTION 3.** Any monies credited to the fund that the board of selectmen deter-

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mines shall not be needed for the costs described in section 2 shall be deposited into the town treasury.

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

Approved June 16, 2008

**Chapter 133. AN ACT ESTABLISHING A SICK LEAVE BANK FOR KIMBERLY CHUCKRAN, 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 Kimberly Chuckran, 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 Kimberly Chuckran. Whenever Kimberly Chuckran terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved June 16, 2008

**Chapter 134. AN ACT AUTHORIZING THE BOARD OF ASSESORS OF BRAINTREE TO GRANT TAX ABATEMENTS TO CERTAIN MILITARY PERSONNEL.**

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

Notwithstanding any general or special law to the contrary, the board of assessors of the town of Braintree may grant, retroactive to fiscal year 2002, real and personal property tax abatements, up to 100 per cent of the total tax assessed to members of the Massachusetts national guard and to reservists on active duty in foreign countries, for the fiscal year they performed such service subject to eligibility criteria to be established by the board of assessors. The authority to grant abatements under this act shall expire after fiscal year 2010 unless extended by a vote of the town council of Braintree.

Approved June 16, 2008

**Chapter 135. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2008 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 purposes, which are forthwith to make supplemental appropriations for fiscal year 2008 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2008, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2008. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**SECTION 2.**

**JUDICIARY**

*Committee for Public Counsel Services*

0321-1510 ..... \$10,425,019

**OFFICE OF THE STATE COMPTROLLER**

*Office of the State Comptroller*

1599-3384 ..... \$2,000,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**

*Group Insurance Commission*

1108-5200 ..... \$29,398,522

1108-5500 ..... \$100,000

**EXECUTIVE OFFICE OF EDUCATION**

*Department of Early Education and Care*

3000-4050 ..... \$1,158,987



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**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

*Department of Veterans' Services*

1410-0400 .....\$3,182,626

*Division of Medical Assistance*

4000-0500 .....\$36,000,000

*Department of Transitional Assistance*

4403-2000 .....\$1,100,000

4405-2000 .....\$693,097

4408-1000 .....\$2,365,244

*Department of Public Health*

4513-1020 .....\$2,000,000

*Department of Social Services*

4800-0038 .....\$3,699,548

4800-0041 .....\$3,226,432

**EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY**

*Office of the Secretary of Public Safety and Security*

8000-0040 .....\$2,516,375

8910-0000 .....\$14,876,000

*Department of State Police*

8100-0000 .....\$1,400,000

8100-0007 .....\$981,934

**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 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, 2008. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**

*Office of the Secretary of Administration and Finance*

1599-4279 For a reserve to meet the fiscal year 2008 costs of salary adjustments and other economic benefits authorized by the

collective bargaining agreement between the University of Massachusetts and the Graduate Employees Organization, UAW, Local 2322 at the Amherst campus, and to meet the fiscal year 2008 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 these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these 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 2008 amounts that are 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 . . . . . \$606,504

**SECTION 2C.I.** For the purpose of making available in fiscal year 2009 balances of appropriations which otherwise would revert on June 30, 2008, 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 61 of the acts of 2007; provided, however, that for items which do not appear in said section 2 of said chapter 61, 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 61; provided, however, that for items which do not appear in said section 2 of said chapter 61, 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 in this section shall be in addition to any amounts available for said purposes.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**  
*Bureau of State Office Buildings*

1102-3307 . . . . . \$25,000

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**  
*Department of Veterans' Services*

1410-0400 . . . . . \$787,875

**EXECUTIVE OFFICE OF EDUCATION**  
*Department of Elementary and Secondary Education*

7027-0016 ..... \$37,738

**SECTION 3.** Item 0699-0015 of section 2 of chapter 61 of the acts of 2007 is hereby amended by striking out the words “item 0699-0015 to item 0699-9100 or from item 0699-9100 to item 0699-0015” and inserting in the place thereof the following words:- items 0699-0015, 0699-2004, or 0699-9100 to any one or more of such item.

**SECTION 4.** Item 4000-0320 of said section 2 of said chapter 61 is hereby amended by inserting after the words “rendered in the current fiscal year” the following words:- ; 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.

**SECTION 5.** Item 4000-1420 of said section 2 of said chapter 61 is hereby amended by striking out the figure “\$233,916,047” and inserting in place thereof the following figure:- \$222,916,047.

**SECTION 6.** Item 7061-9404 of said section 2 of said chapter 61 is hereby amended by inserting after the words “Lynn At-Risk Youth” the following words:- ; provided further, that not less than \$200,000 shall be expended for a pilot program operated by a nonprofit organization and staffed by certified teachers and college aged tutors, to provide after school and summer educational services to students in low-income urban communities that require additional assistance to become academically proficient; provided further, that the pilot shall provide student instruction for 2.5 hours in core curricula, including math and literacy, using a multi-cultural approach and shall provide opportunities to work with tutors on homework, community service, team self-esteem and relationship building; provided, further, that not less than \$200,000 shall be expended from this item to study and begin implementation of a pilot wireless student learning initiative at Harbor and O'Hearn schools in the city of Boston and the commonwealth corporation shall file a report detailing findings of the study to the house and senate committees on ways and means by March 15, 2009.

**SECTION 6A.** Said item 7061-9404 of said section 2 of said chapter 61 is hereby further amended by striking out the figure “\$13,215,863” and inserting in place thereof the following figure:- \$13,615,863.

**SECTION 7.** The second sentence of section 55 of said chapter 61, as amended by section 57 of chapter 140 of the acts of 2007, is hereby further amended by striking out the words “; provided further, that the comptroller, in consultation with the office and the executive office of health and human services, shall transfer funds from the fund to the executive office for the purpose of the Title XIX service rate payments”.

**SECTION 8.** Section 2 of chapter 120 of the acts of 2008 is hereby amended by striking out item 0330-0337 and inserting in place thereof the following item:-



0330-3337 For the costs in fiscal year 2008 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 and personnel of the trial court employed in confidential positions who would otherwise be covered by said agreement in effect for fiscal year 2008 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 . . . . \$8,187,426

**SECTION 9.** Notwithstanding any general or special law or rule or regulation to the contrary, any unexpended balances, not to exceed a total of \$15,000,000, in items 4000-0600 and 4000-0700 of section 2 of chapter 61 of the acts of 2007, shall not revert to the General Fund until September 1, 2008, and may be used by the executive office of health and human services to pay for services provided during fiscal year 2008.

**SECTION 10.** Notwithstanding any general or special law to the contrary, the funds made available to the Group Insurance Commission through this act after June 30, 2008 shall be made available for expenses of the Commission through June 30, 2008.

**SECTION 11.** Notwithstanding any general or special law to the contrary, the secretary of health and human services may authorize transfers from items 4000-0430, 4000-0600, 4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990, 4000-1400 and 4000-1405 of section 2 of chapter 61 of the acts of 2007 to items 4000-0500 or 4000-1420 of said section 2 for the purpose of reducing any deficiency in items 4000-0500 or 4000-1420, but any such transfer shall take place not later than August 31, 2008.

**SECTION 12.** Notwithstanding any general or special law to the contrary, in order to minimize investment fees and maximize returns through continuity of investment management of the State Retiree Benefits Trust Fund, established in subsection (a) of section 24 of chapter 32A of the General Laws while the general court considers the recommendations of the commission established by section 82 of said chapter 61, investments of the trust shall be held and managed by the Health Care Security Trust board of trustees, established in section 4 of chapter 29D of the General Laws, until legislation is enacted confirming management of the State Retiree Benefits Trust Fund. The executive director of the group insurance commission, who is a member of the trustees of the State Retiree Benefits Trust Fund, shall continue in that capacity in an advisory role to the Health Care Security Trust board of trustees as to cash flow needs of the State Retiree Benefits Trust

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Fund and shall pay benefits as needed from that fund. The comptroller shall work with the executive director to implement this section.

*Pursuant to Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution, the Lieutenant Governor-Acting Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments to Section 8.*

*The remainder of the bill was approved by the Lieutenant Governor-Acting Governor on June 17, 2008 at eleven o'clock and fifty minutes, A.M.*

### **Chapter 136. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SAMUEL PILL, 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 Samuel Pill, 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 Samuel Pill. Whenever Samuel Pill terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved June 20, 2008

### **Chapter 137. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CAROL A. WALL, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.**

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

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

Notwithstanding any general or special law or rule or regulation to the contrary, the

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department of mental retardation shall establish a sick leave bank for Carol A. Wall, 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 Carol A. Wall. Whenever Carol A. Wall terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved June 20, 2008

**Chapter 138. AN ACT RELATIVE TO THE CONVEYANCE OF PROPERTY BY THE COUNTY OF NANTUCKET.**

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

**SECTION 1.** The county of Nantucket may convey 2 parcels of land to the town of Nantucket without consideration and to take any action necessary to transfer ownership of the following parcels:

(1) a parcel of land, formerly part of a county roadway known as Sherburne Turnpike at its intersection with Hamblin road, as shown on a plan entitled "Proposed Modification of Sherburne Turnpike", dated February, 2007, on file with the Nantucket planning office; and

(2) a parcel of land, formerly part of a county roadway known as Milestone road at its intersection with Polpis road, as shown on a plan entitled "Proposed Modification of Milestone Road", dated February, 2007, on file with the Nantucket planning office.

**SECTION 2.** A majority of the voters at an annual or special town meeting shall approve acceptance of any transfer authorized in section 1 before the conveyance shall take effect.

**SECTION 3.** Chapter 30B of the General Laws and any rights of first refusal in the commonwealth under section 14 of chapter 34 of the General Laws shall not apply to a conveyance authorized in this act.

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

Approved June 20, 2008

**Chapter 139. AN ACT CONVERTING THE LIQUOR LIABILITY JOINT UNDERWRITING ASSOCIATION INTO THE HOSPITALITY MUTUAL INSURANCE COMPANY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to assure the continued availability of liquor liability insurance, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.



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

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by inserting after section 113V the following section:-

Section 113W. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Association”, the joint underwriting association established under chapter 223 of the acts of 1985.

“Licensee”, any person, firm, corporation or association holding a license for the sale of alcoholic beverages under chapter 138.

“Liquor liability insurance”, insurance coverage protecting the insured against any claims for losses, damages or other expenses arising from death or injury to any person or damage to property as a result of negligence in the distribution, sale or service of alcohol by any licensee.

(b) The association is hereby converted into a mutual insurance company to be known as the hospitality mutual insurance company, which shall succeed and assume all of the assets and liabilities of the association. All rights, interests and properties of the association shall, without any further act or deed, be the property of the hospitality mutual insurance company, which shall be bound by all obligations and liabilities of the association including, without limitation, the rights and obligations of the association under the policies of insurance which it issued. No contracts, claims, suits or other rights of or against the association shall be affected by this conversion.

(c) The hospitality mutual insurance company may transact any kind of liability insurance other than automobile insurance. The hospitality mutual insurance company may transact other lines of insurance for which it may be licensed, as the commissioner may approve, subject to the restrictions of section 48A. Except as provided in this section or in its articles of organization or by-laws, the hospitality mutual insurance company shall have all powers conferred upon a mutual insurance company incorporated in the commonwealth. Nothing in this section shall diminish the commissioner’s regulatory authority as set forth in this chapter.

(d) The hospitality mutual insurance company shall make available liquor liability insurance coverage to any licensee.

(e) The hospitality mutual insurance company shall be governed by a board of directors which shall, notwithstanding any general or special law to the contrary, be constituted and selected in the manner set forth in the company’s by-laws. Notwithstanding any general or special law to the contrary, the officers of the company may, on behalf of the board, solicit proxies from its members and vote such proxies without limitation on the number of votes so cast.

(f) Notwithstanding any general or special law to the contrary, the hospitality mutual insurance company: (1) shall not be subject to sections 73, 90A, 92, 93A and 93B, insofar as those sections relate to subscriptions for insurance or securing initial applications for

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insurance; and (2) may issue nonassessable policies.

**SECTION 2.** Sections 1 to 12, inclusive, of chapter 223 of the acts of 1985 are hereby repealed.

Approved June 20, 2008

**Chapter 140. AN ACT EXEMPTING THE POSITION OF DEPUTY CHIEF OF POLICE IN THE TOWN OF DARTMOUTH FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of deputy chief of police of the town of Dartmouth shall be exempt from chapter 31 of the General Laws.

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

Approved June 20, 2008

**Chapter 141. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE CITY KNOWN AS THE TOWN OF METHUEN FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of chief of police in the city known as the town of Methuen shall be exempt from chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of any person holding the office of police chief in the city known as the town of Methuen on the effective date of this act.

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

Approved June 20, 2008

**Chapter 142. AN ACT RELATIVE TO THE SPECIAL POLICE OFFICERS IN THE CITY KNOWN AS THE TOWN OF WEST SPRINGFIELD.**

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

**SECTION 1.** The mayor of the city known as the town of West Springfield may appoint such special police officers for the town as he deems necessary for the safety and

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protection of the citizens of the town.

**SECTION 2.** Special police officers shall have the same power to make arrests and to perform other police functions as intermittent police officers and shall be subject to the same training requirements as intermittent officers.

**SECTION 3.** Special police officers shall be appointed for a term to be determined by the mayor, subject to removal at the sole discretion of the mayor. Special police officers shall not be entitled to compensation for their services except as determined by the mayor. Nor shall they be entitled to any municipal employee benefits. Special police officers shall be sworn before the town clerk who shall keep a record of all such appointments.

**SECTION 4.** Any person who has served in the capacity as a permanent full-time police officer in the town of West Springfield and has retired or resigned under honorable conditions, may be appointed as a special police officer under this act.

**SECTION 5.** Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws.

**SECTION 6.** Chapter 322 of the acts of 2000 is hereby repealed.

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

Approved June 20, 2008

## **Chapter 143. AN ACT AUTHORIZING THE TOWN OF SHIRLEY TO ESTABLISH THE LONGLEY ACRES MAINTENANCE FUND.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Shirley may establish the Longley Acres Maintenance Fund to receive and expend funds, without further appropriation, to operate, maintain, manage and improve the Longley Acres Conservation Area at 27 Whitney road, hereinafter referred to as the area, and to sell or lease forest and agricultural-related products to benefit the area, at the direction of the town conservation commission under section 8C of chapter 40 of the General Laws.

**SECTION 2.** Notwithstanding sections 53 and 53A of chapter 44 of the General Laws, the income received by the commission including, but not limited to, the proceeds from the sale or lease of forest and agricultural-related products to benefit the area, and the sale of publications and revenue from license agreements for the area shall be deposited into the fund. The treasurer who shall be the custodian of the fund, may invest and deposit the funds as provided in section 8C of chapter 40 of the General Laws and any income derived from such funds shall be credited to the account. The funds shall be available to the commission, without further appropriation, to maintain and improve the area. Maintenance and improvement costs of the area may include, but shall not be limited to: (a) land surveys,



recording fees and costs, plant and wildlife surveys, marking of trees or areas for cutting management surveys and mapping; (b) property improvements to the area, including trail establishment or improvement, parking, trash pickup and the protection and development of wildlife and plant habitats; (c) maintenance of the house, barn and other structures; (d) legal and other professional or consulting services; (e) improvement and maintenance of the property and buildings for educational purposes, including classes, walks, lectures, demonstrations and related expenses; and (f) improvement and maintenance of the buildings and land so that the area may be used for farming including, but not limited to, growing crops and hay, gardening and raising animals.

**SECTION 3.** The commission may establish and adopt operating standards and performance criteria for work done in connection with the area, which may include, but shall not be limited to, restrictions on the nature and method of work performed, such as those related to seasonal or weather-related conditions, methods of stream crossings, stone wall repairs and the use of oil or other toxic or harmful material in the area or in connection with the area.

**SECTION 4.** The commission may enter into contracts to carry out this act. The commission may include in a contract a requirement that it not be held liable with respect to claims, injuries, costs, damages or other relief arising out of, or related to, the subject matter of the contract. The commission may require a person performing labor or services to maintain liability insurance and performance bonds. The standards and criteria adopted by the commission under section 3 may be incorporated into contracts entered into by the commission under this section.

**SECTION 5.** The commission may receive gifts from any source and appropriations from the town of Shirley for deposit into the fund.

**SECTION 6.** The funds accumulated before the effective date of this act from the sources listed in section 2 shall be transferred to the fund.

**SECTION 7.** The town accountant shall annually audit the fund and submit a copy of the audit to the board of selectmen. The board of selectmen shall publish the audit in the town's annual report.

**SECTION 8.** Nothing in this act shall limit the powers and authority of the commission or limit or deny the commission any rights, power or authority otherwise granted by any general or special law or by-law of the town of Shirley.

**SECTION 9.** This act shall take effect upon its passage.

Approved June 20, 2008

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**Chapter 144. AN ACT AUTHORIZING THE CITY OF NORTHAMPTON TO CONVERT 5 SEASONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES TO ANNUAL 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 city of Northampton may convert the 5 currently-issued seasonal licenses for the sale of all alcoholic beverages to be drunk on the premises to annual licenses for the sale of all alcoholic beverages to be drunk on the premises. Any such license shall be subject to all of said chapter 138 except said section 17. An applicant for conversion of a seasonal all alcoholic beverages license for the same premises and location shall not be required to notify abutters as required by section 15A of said chapter 138.

**SECTION 2.** (a) Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority may only approve the conversion of a license at the same location as the current seasonal license. Failure to use or operate the license for 6 consecutive months may, after a hearing, cause the license to revert to the city. That license may then be re-issued by the licensing authority at the same location or at a location within the same economic development target zone if the applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

(b) If a license converted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same location or at a location within the same economic development target zone and under the same conditions as specified in this act.

(c) The economic development target zones shall include the following districts in the Northampton Zoning Ordinance:

- (1) central business;
- (2) general business;
- (3) highway business;
- (4) neighborhood business;
- (5) business park; and
- (6) special industry.

**SECTION 3.** (a) The fee charged by the city of Northampton for an annual license for the sale of all alcoholic beverages issued pursuant to this act shall be paid by the licensee to the city in full at the time of issuance. The city shall not enter into any arrangement with the recipient of a license in which the city authorizes the fee to be divided into multiple payments or prorated over multiple periods of time.

(b) If the city of Northampton charges a fee for an annual license for the sale of all

alcoholic beverages issued pursuant to this act which is greater than the amount of the fee charged for a similar license issued by the city, then the city shall establish an economic development account and deposit the fee which shall be expended by the city in a manner consistent with the purposes of the account.

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

Approved June 20, 2008

**Chapter 145. AN ACT RELATIVE TO THE HOMEOWNERS' RESIDENTIAL TAX EXEMPTION IN THE CITY OF BOSTON.**

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

**SECTION 1.** Notwithstanding section 5C of chapter 59 of the General Laws and clause Fifty-fifth of section 5 of said chapter 59 or any other general or special law to the contrary, the city of Boston may promulgate rules or regulations to provide for a residential tax exemption for cooperative housing residents to be known as the cooperative housing equitable tax exemption, which shall make available to qualifying cooperative housing corporation residential unit owners an exemption of 30 per cent of the average value of the cooperative corporation's residential units.

**SECTION 2.** As used in this act, unless a different meaning clearly appears from the context, the following words shall have the following meanings:-

"Cooperative corporation", a cooperative corporation as defined in section 4 of chapter 157B of the General Laws.

"Member", a member as defined in said section 4 of said chapter 157B.

**SECTION 3.** The exemption granted under this act shall be the amount calculated pursuant to section 5. The assessors shall apply the amount of the exemption to the actual amount assessed to the cooperative corporation. The number of units to be considered shall be the number of units whose owners have met all requirements in section 4. It shall be the obligation of the cooperative corporation's management, representative or board of trustees to distribute the exemption among its qualifying cooperative corporation members in proportion to each member's number of shares as identified in the stock certificate.

**SECTION 4.** To be eligible for the exemption, the cooperative corporation's management, representative or board of trustees shall provide the assessing department, on or before October 31 of the year in which the exemption is requested, the following information and documentation: (i) for each cooperative corporation which wishes to receive an exemption on behalf of its members, proof of all eligible members' status on January 1 of the preceding fiscal year, including, but not limited to, corporate filings under chapter 157B of the General Laws with the state secretary, a statement of shares owned by each member



and the date of share acquisition, a statement of share unit representation, and a proprietary lease bearing the names of the co operative corporation and the member; (ii) proof that the member occupied the cooperative corporation unit on January 1 of the preceding fiscal year as a primary residence for income tax purposes. The city of Boston may request additional information as it deems necessary.

An exemption application shall be filed with the board of assessors by the cooperative corporation's management, representative or board of trustees. The application and accompanying proof shall be filed annually. The exemption shall be granted only if the requirements of this section are met. All proof requested by the board of assessors shall be received by the board of assessors on or before October 31 of the fiscal year in which the exemption is sought.

**SECTION 5.** The amount of the residential exemption granted under this act shall be based on the average residential value of units of the cooperative corporation applying for this exemption. The amount of the exemption may equal, but shall not exceed, the residential exemption amount given to homeowners under the first paragraph of section 5C of chapter 59 of the General Laws. The exemption provided for in this act shall not apply to commercial cooperative corporation units or any residential cooperative corporation units leased to a third party under any form of lease agreement.

**SECTION 6.** A cooperative corporation upon which a tax has been assessed, if aggrieved by such tax, may, on or before the thirtieth day after the date on which the bill or notice of such tax was sent, petition in writing to the board of assessors, on a form approved by the commissioner of revenue, for an abatement thereof. If the board finds that the cooperative corporation was taxed at more than its just proportion under this act, it shall make an abatement in accordance with this act. No individual cooperative corporation member shall have standing to apply for an exemption for his unit, nor shall an individual member have standing to petition for abatement under this section. A cooperative corporation that is aggrieved by the denial of the exemption provided for in this act may file a notice of appeal with the appellate tax board within 60 days of notice of the assessors' refusal to grant the exemption.

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

Approved June 20, 2008

**Chapter 146. AN ACT REGULATING THE PROVISION OF HEALTH INSURANCE TO SURVIVING SPOUSES OF CERTAIN EMPLOYEES OF THE TOWN OF WAREHAM.**

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

**SECTION 1.** Notwithstanding chapter 32B of the General Laws or of any other general or special law to the contrary, upon the death of an employee or retired employee who had been continuously employed by the town of Wareham for at least 20 years, the surviving spouse may continue the group general or blanket insurance coverage for the surviving spouse and the dependents of the deceased employee providing hospital, surgical, medical, dental and other health benefits on the same terms and conditions and upon payment of the same premium as retired employees of the town until the remarriage or death of the surviving spouse. An application for such insurance coverage shall be filed with the appropriate public authority and a method for the payment of premiums shall be determined in accordance with its rules and regulations.

**SECTION 2.** Upon the death of an employee or retired employee of the town of Wareham who has not been continuously employed by the town for at least 20 years, the surviving spouse may continue the group general or blanket insurance coverage for the surviving spouse and the dependents of the deceased employee providing hospital, surgical, medical, dental and other health benefits until the remarriage or death of the surviving spouse. An application for such insurance coverage shall be filed with the appropriate public authority and a method for the payment of premiums shall be determined in accordance with its rules and regulations. A surviving spouse shall pay the entire cost of premiums for insurance coverage provided under this section without any contribution by the town of Wareham.

**SECTION 3.** This act shall be applicable to any surviving spouse of a deceased employee or retired employee who had been continuously employed by the town of Wareham for at least 20 years if the surviving spouse is participating in the town's health insurance plans as of the effective date of this act.

**SECTION 4.** The Wareham board of selectmen may issue regulations, as may be necessary or desirable to implement this act.

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

Approved June 20, 2008

**Chapter 147. AN ACT ESTABLISHING THE CALEB CHASE TRUST FUND  
REVENUE ACCOUNT IN THE TOWN OF DENNIS.**

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

(a) Notwithstanding any general or special law to the contrary, the town of Dennis, may design and designate a place on its municipal real estate tax bills whereby taxpayers of the town of Dennis may voluntarily check off, donate and pledge an amount of not less than \$1 which shall increase the amount otherwise due, and that donation and pledged amount shall be deposited in the Caleb Chase Trust Fund to be used for the support of the poor.

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(b) Amounts donated to the Caleb Chase Trust Fund shall be deposited into a special account in the general treasury and shall be in the custody of the town treasurer. The treasurer shall invest the funds at the direction of the Caleb Chase Trust Fund committee, subject to the same provisions and limitations of the General Laws applicable to trust fund investments. The Caleb Chase Trust Fund, together with the interest earned thereon, shall be used for the purpose specified in this section without further appropriation.

(c) Trust funds shall only be expended in accordance with the terms of the Caleb Chase Trust. The Caleb Chase Trust Fund committee, with the assistance of the town treasurer, shall adopt rules and regulations to carry out this act and to identify the receipts of such aid. The Caleb Chase Trust Fund committee shall provide an annual financial report of the activities of the Caleb Chase Trust Fund to the board of selectmen.

Approved June 20, 2008

**Chapter 148. AN ACT PERMITTING THE REINSTATEMENT OF ROGER B. CATALDO TO THE POLICE DEPARTMENT OF THE TOWN OF SOUTHWICK.**

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

Notwithstanding any general or special law to the contrary, Roger B. Cataldo, a retired patrolman of the police department of the town of Southwick, may be reinstated to that position until he reaches the age of 70 provided that he is mentally and physically capable of performing the duties of such position. Roger B. Cataldo shall, at the town's expense, be examined by an impartial physician, designated by the town, to determine such capability. No further deductions shall be made from his regular compensation under chapter 32 of the General Laws for service subsequent to December 31, 2002 and, upon retirement after his reinstatement, he shall receive a superannuation retirement allowance equal to that which he was entitled to receive as of December 31, 2002.

Upon reinstatement under this act, Roger B. Cataldo shall be subject to section 91 of chapter 32 relative to the number of hours he shall be authorized to work and the maximum salary he shall be paid.

Approved June 20, 2008

**Chapter 149. AN ACT FURTHER REGULATING THE EDUCATIONAL REQUIREMENTS FOR OPERATING BOILERS UNDER A SPECIAL LICENSE.**

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



The second paragraph of section 49 of chapter 146 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- Individuals licensed to operate boilers under a special license shall demonstrate completion of 6 hours of continuing education at or through an institution or organization approved by the commissioner, in consultation with the chief inspector, during each 5-year period preceding each license renewal. All other individuals licensed to operate boilers shall demonstrate the completion of 30 hours of continuing education before each license renewal.

Approved June 20, 2008

**Chapter 150. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MANUEL M. AFFONSO JR., 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 Manuel M. Affonso Jr., 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 Manuel M. Affonso Jr. Whenever Manuel M. Affonso Jr. terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved June 25, 2008

**Chapter 151. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JESSE GOGUEN, 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.

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*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 Jesse Goguen, 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 Jesse Goguen. Whenever Jesse Goguen terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved June 25, 2008

**Chapter 152. AN ACT RELATIVE TO PRELIMINARY ELECTIONS IN THE CITY OF NEWTON.**

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

**SECTION 1.** Section 8-3 of the charter of the city of Newton, which is on file in the office of the archivist of the commonwealth as provided by section 12 of chapter 43B of the General Laws, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Date – For each regular city election and any special election called to fill a vacancy in the office of mayor, there shall be held a preliminary election for the purpose of nominating candidates. The board of aldermen shall set the date for each preliminary election, which shall be a Tuesday.

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

Approved June 25, 2008

**Chapter. 153 AN ACT RELATIVE TO THE RETIREMENT AND HEALTH INSURANCE OF CERTAIN ELECTED OFFICIALS IN THE TOWN OF TYRINGHAM.**

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

**SECTION 1.** Notwithstanding chapter 32 or chapter 32B of the General Laws or any other general or special law to the contrary, an elected official in the town of Tyringham who receives regular annual compensation that is less than \$3,000, adjusted annually according to the national consumer price index issued by the federal Bureau of Labor Statistics as of June 30, shall not be eligible for the benefits provided under said chapter 32 or said chapter

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32B; provided, however, that an elected official in office on January 1, 2006 who continues to serve in such capacity without interruption shall continue to be eligible for such benefits.

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

Approved June 25, 2008

**Chapter 154. AN ACT AUTHORIZING THE TOWN OF WESTBOROUGH 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 Westborough may grant one additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to Sapporo, Inc. d/b/a Sapporo Restaurant, located at 50 East Main street in the town of Westborough. The license shall be subject to all of said chapter 138 except said section 17.

Notwithstanding any general or special law or any rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other location. The license may be re-issued by the licensing authority at the same location if an applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

If the license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same location under the same conditions as specified in this act.

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

Approved June 25, 2008

**Chapter 155. AN ACT RELATIVE TO ELECTIONS IN THE CITY OF EVERETT.**

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

Section 6 of chapter 355 of the acts of 1892 is hereby amended by adding the following sentence:- An individual running for elective office shall have his name on the ballot only for 1 office that is 1 seat at any 1 election.

Approved June 25, 2008



**Chapter 156. AN ACT RELATIVE TO THE CONSERVATION COMMISSION OF THE TOWN OF WEST STOCKBRIDGE.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the board of selectmen of the town of West Stockbridge shall appoint 2 associate members to the West Stockbridge conservation commission for terms of not less than 3 years.

**SECTION 2.** The chairman of the West Stockbridge conservation commission may designate an associate member to sit on the commission only in the case of absence, inability to act or conflict of interest on the part of a member thereof, or in the event of a vacancy on the commission, until the vacancy is filled by the board of selectmen pursuant to section 8C of chapter 40 of the General Laws.

Approved June 25, 2008

**Chapter 157. AN ACT AUTHORIZING THE CITY OF WORCESTER TO PROVIDE CERTAIN RETIREMENT AND MEDICAL BENEFITS TO FIREFIGHTER MARK S. STOMSKI.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary and in order to promote the public good, the retirement board of the city of Worcester shall retire Mark S. Stomski, a firefighter employed by the city of Worcester who, while responding to an alarm at 11 Boyden Street on September 23, 2006, sustained injuries likely to result in his death. The annual amount of pension payable to Mark S. Stomski under this act shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a firefighter in the city at the grade held by him at the time of his retirement; but (1) after he has attained the maximum age for his group, his retirement shall be reduced to the appropriate rate for an accidental disability retirement, treating his retirement years as creditable service for determining the amount of his benefits; and (2) the retirement allowances payable to him after he has attained the maximum age for his group shall be increased in the manner provided to all retirees of the city pursuant to chapter 32 of the General Laws.

**SECTION 2.** Before taking action under authority of this act, the retirement board of the city of Worcester shall request the state public employee retirement administration commission to appoint a medical panel composed of 3 physicians who shall examine Mark S. Stomski or, if a majority of the retirement board shall agree, forego the examination and review the existing medical records and other relevant information concerning Mark S. Stomski. The retirement board of the city of Worcester shall approve a pension for Mark S.

Stomski upon receipt of a report from the medical panel which concludes that Mark S. Stomski is physically incapacitated for further duty as a firefighter, that the incapacity is likely to be permanent and that the injuries are likely to result in his premature death. The retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation. Upon the retirement of Mark S. Stomski, the retirement board of the city of Worcester shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of the city. Upon the approval of the pension provided for herein and notwithstanding any general or special law to the contrary, Mark S. Stomski shall not be subject to examination or re-examination by a medical panel or other physician to determine his eligibility or continued eligibility for accidental disability retirement benefits as provided in this section or in said chapter 32 of the General Laws.

**SECTION 3.** Upon the death of Mark S. Stomski before the maximum age for his group and if his wife at the time of the incident survives him, the city of Worcester shall pay to his wife an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death, and \$527.28 annually adjusted for a cost-of-living increase for each child of Mark S. Stomski for the time that the child is either under 18 years of age or totally physically or mentally incapacitated from working, or over 18 years of age, but under age 22, if a full-time student. Upon the death of Mark S. Stomski after attaining the maximum age for retirement for his group and if his wife at the time of the incident survives him, she shall be entitled to the same benefits as other surviving spouses under chapter 32 of the General Laws, as shall their children. In the event of the death of Mark S. Stomski and if his wife at the time of the incident does not survive him, the allowance shall be paid to the legal guardian for the benefit of any surviving children, as defined in this section.

**SECTION 4.** (a) Mark S. Stomski shall be eligible for health insurance through the city of Worcester on the same basis as other retirees and shall be responsible for the retirees' share of premiums. Following his retirement, the city of Worcester shall pay for necessary and reasonable medical expenses for him due to injuries for which he was retired.

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

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

(d) Payments made pursuant to this section shall meet all other eligibility requirements of the health insurance; provided, however, that Mark S. Stomski shall not be required to change health care providers; and, provided further, that changes made by him

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in health care providers and referrals from current health care providers to health care providers who have not rendered care to him for the injury for which he was retired, shall comply with subsection (b).

**SECTION 5.** Mark S. Stomski shall not have his retirement allowance subject to modification as a result of earnings from alternative employment; provided, however, that he shall be required to submit earnings reports to the public employee retirement administration pursuant to section 91A of chapter 32 of the General Laws. Mark S. Stomski shall be subject to the limitation of earnings formula as set forth in said section 91A of said chapter 32, with the ability to earn the amount described in said section 91A plus an additional \$2,500. If he earns in excess of these allowable amounts, the public employee retirement administration shall inform him of the excess amount earned and the amount owed by him to the retirement board of the city of Worcester. The retirement administration shall, in its discretion, require repayment of that amount to the retirement board or may withhold amounts as it considers appropriate from future retirement allowance payments until the amounts owed to the retirement board have been paid in full.

**SECTION 6.** The retirement allowances payable pursuant to this act shall remain subject to all other provisions of chapter 32 of the General Laws as if they had been granted as accidental disability retirements benefits in the normal course of events pursuant to said chapter 32, except to the extent that said chapter 32 conflicts with this act.

Approved June 25, 2008

**Chapter 158. AN ACT MAKING CERTAIN APPROPRIATIONS FOR FISCAL YEAR 2009 BEFORE FINAL ACTION ON THE GENERAL APPROPRIATION BILL.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the amount of \$1,050,000,000 is hereby appropriated for the fiscal year ending June 30, 2009, to meet necessary expenditures before the enactment of the general appropriation act for that fiscal year, for the maintenance and operations of the various 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 act and all actions taken under this section shall apply against that general appropriation act. All expenditures made under this section 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, 2008, but which are necessary to fund obligations during fiscal year 2009, are hereby re-authorized,



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but this re-authorization 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, 2008. Section 2 shall take effect on June 30, 2008.

Approved June 25, 2008

**Chapter 159. AN ACT AUTHORIZING DANIEL WESINGER TO TAKE THE CIVIL SERVICE EXAMINATION FOR FIREFIGHTER IN THE TOWN OF ARLINGTON.**

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

**SECTION 1.** Notwithstanding chapter 31 of the General Laws or any other general or special law to the contrary, regulating the maximum age of applicants for appointment, Daniel Wesinger shall be eligible to take the open competitive examination for appointment as a firefighter in the town of Arlington and shall be eligible for appointment to that position if he meets all other requirements.

**SECTION 2.** This act shall take effect upon its passage and shall expire on December 31, 2012.

Approved June 30, 2008

**Chapter 160. AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO ESTABLISH A SPECIAL ACCOUNT FOR THE MAINTENANCE OF ITS BODIES OF WATER.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Arlington may establish a special account into which may be appropriated sums of money to be raised by general tax or otherwise, including borrowing, and which may receive gifts

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or grants of money to be expended, under the direction of the town manager, without further appropriation, for the maintenance, treatment and oversight of the town's bodies of water.

**SECTION 2.** The town manager shall report to each annual town meeting the revenues into and expenditures from the fund, together with a projection of future needs.

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

Approved June 30, 2008

**Chapter 161. AN ACT ESTABLISHING A VOTING PRECINCT IN THE TOWN OF HINGHAM.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, precinct 6 of the town of Hingham 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 in a state or municipal election: one polling location shall be located in the Linden Ponds retirement community at 203 Linden Ponds way, to serve voters residing within Linden Ponds located in the town of Hingham and voters residing on the following streets: Abington street, Accord lane, Accord Pond drive, Deerfield road, Dennis road, Derby street, Devon terrace, Farm Hills lane, numbers 227 to 453 inclusive, on Gardner street, Harvest lane, Hazelwood drive, Hickey road, Mallard run, Old Derby street, Peter Hobart drive, Recreation Park drive, Whiting lane, Whiting street, and Winfield road, and shall be known as precinct 6A; and the other polling location shall be designated by the board of selectmen under section 24 of chapter 54 of the General Laws to serve all others in current precinct 6 which shall be known as precinct 6.

**SECTION 2.** The board of registrars of voters and the town clerk shall take all necessary actions to assure compliance with this act including, but not limited to, assuring the accuracy of the voting lists located at each polling location in section 1. The board of registrars and the town clerk shall divide precinct 6 into 2 precincts, precinct 6 and precinct 6A, and only the names of voters who reside in each shall appear on the voting list for any such precinct.

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

Approved June 30, 2008

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**Chapter 162. AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF THE  
2007 SPRING ANNUAL TOWN MEETING AND 2007 FALL ANNUAL  
TOWN MEETING OF THE TOWN OF NATICK.**

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

**SECTION 1.** Notwithstanding section 10 of chapter 39 of the General Laws or any other general or special law or town charter provision or by-law to the contrary, all acts and proceedings taken by the town of Natick at its 2007 spring annual town meeting, originally scheduled to commence on April 10, 2007, and its 2007 fall annual town meeting commenced on October 16, 2007, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if the warrants for those town meetings had been posted and published in full compliance with the law and town charter and by-law.

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

Approved June 30, 2008

**Chapter 163. AN ACT AUTHORIZING THE CITY OF WESTFIELD TO CONVEY  
A CONSERVATION RESTRICTION TO THE DEPARTMENT OF  
FISH AND GAME.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the conveyance of a certain conservation restriction, 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 city of Westfield may convey to the commonwealth, by and through the department of fish and game, easements or lesser interests through a conservation restriction under sections 31, 32 and 33 of chapter 184 of the General Laws, for the preservation and protection of wildlife and habitat and passive recreation and other consistent purposes, in all or portions of certain parcels of land of the city identified in section 3, which were acquired by the city for water supply purposes under chapter 322 of the acts of 1873. The conservation restriction shall allow for the city to retain the right to use the land as a potential water supply for the city. The conservation restriction may restrict or regulate, but shall not unreasonably limit, the acts or uses associated with water supply purposes.

**SECTION 2.** If the conservation restriction is taken by the commonwealth under chapter 79 of the General Laws and not otherwise acquired, it shall be subject to any easement or lesser interest in land held by any person or governmental agency, except for the city of Westfield, that lawfully exists and shall have been recorded in the appropriate registry



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of deeds, unless the department of fish and game expressly takes the easement or lesser interest through eminent domain under said chapter 79; provided, however, that the division of fisheries and wildlife, the city of Westfield, the town of Montgomery, members of the general court representing these communities and representatives of organizations promoting the conservation of and appropriate recreational use of said parcels may establish a working group to discuss and plan for public access, law enforcement, open space and habitat protection, water supply protection, forest management, abutting property owner rights, recreation regulations and the future acquisition of parcels by the town of Montgomery; and provided further, that once established, the working group shall be convened on a regular basis to address the concerns of residents relating to constructive and compatible public access to said parcels and other land use issues.

**SECTION 3.** The parcels are identified as follows: all of the lands, including lands under water, in the town of Montgomery and city of Westfield as described in certain deeds recorded in the Hampden county registry of deeds in book 308, page 346; book 314, page 319; book 319, page 30; book 319, page 128; book 413, page 115; book 684, page 77; book 691, page 322; book 691, page 496; book 692, page 476; book 773, page 372; book 784, page 448; book 830, page 492; book 958, page 153; book 986, page 209; book 986, page 324; book 986, page 449; book 1018, page 303; book 1031, page 405; book 1184, page 342; book 1152, page 550; book 1194, page 67; book 1194, page 166; book 1216, page 104; book 1216, page 107; book 1242, page 120; book 1272, page 56; book 1278, page 300; book 1314, page 572; book 1344, page 352; book 1344, page 353; book 192, page 278; book 1418, page 392; book 1472, page 153; book 1506, page 360; book 1542, page 217; book 1612, page 287; book 1623, page 60; book 1628, page 161; book 1632, page 208; book 1651, page 445; book 1660, page 467; book 1665, page 528; book 1677, page 61; book 1704, page 524; book 1704, page 525; book 2891, page 408; book 2916, page 290, book 3483, page 236; EXCEPTING the lands described in book 5479, page 592; book 7448, page 526; book 9373, page 193 and a parcel of land consisting of 3.98 acres, more or less, identified as Parcel "A" on a plan dated March 18, 2008 entitled "Proposed Transfer of Property, Montgomery, Massachusetts for Board of Selectmen Town of Montgomery" prepared by D.L. Bean, Inc., surveyors and engineers, as of record in the office of the city engineer of the city of Westfield.

Approved June 30, 2008

## Chapter 164. AN ACT EXTENDING WIRELESS ENHANCED SERVICES.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to extend forthwith wireless enhanced 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:*

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**SECTION 1.** The first paragraph of section 18H½ of chapter 6A of the General Laws is hereby amended by striking out the words “June 30, 2008”, inserted by section 3 of chapter 42 of the acts of 2007, and inserting in place thereof the following words:- July 31, 2008.

**SECTION 2.** Section 9 of chapter 61 of the acts of 2002, as most recently amended by section 9 of said chapter 42, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Section 7 of this act shall take effect on July 31, 2008.

Approved June 30, 2008

**Chapter 165. AN ACT AUTHORIZING THE TOWN OF HANSON TO CONVEY A CONSERVATION RESTRICTION TO THE DEPARTMENT OF FISH AND GAME.**

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

**SECTION 1.** The town of Hanson may convey to the commonwealth, by and through the department of fish and game, easements or lesser interests through a conservation restriction under sections 31, 32 and 33 of chapter 184 of the General Laws, for the preservation and protection of wildlife and habitat and passive public recreation and other consistent purposes, in the parcel of land identified in section 2. If the conservation restriction is taken by the commonwealth under chapter 79 of the General Laws, the taking shall be a consensual eminent domain taking of a conservation restriction by agreement between the town of Hanson and the commonwealth. If the conservation restriction is taken by the commonwealth under chapter 79 and not otherwise acquired, it shall be subject to any easement or lesser interest in land held by any person or governmental agency, except for the town of Hanson, that lawfully exists and shall have been recorded in the appropriate registry of deeds, unless the department of fish and game expressly takes the easement or lesser interest through eminent domain under said chapter 79.

**SECTION 2.** The parcel is identified as all of the land in the town of Hanson described in a deed recorded in the Plymouth county registry of deeds in Book 9308, Page 74 and shown as Lot 2 on plan recorded in said registry in Plan Book 33, Page 497. The parcel was acquired by the town by deed recorded in the Plymouth county registry of deeds in Book 9308 at Page 74 and dedicated by the town for conservation uses and purposes.

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

Approved June 30, 2008

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**Chapter 166. AN ACT RELATIVE TO THE KASABUSKI RINK IN THE TOWN OF SAUGUS.**

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

**SECTION 1.** Chapter 330 of the acts of 1982 is hereby repealed.

**SECTION 2.** (a) Notwithstanding any general or special law to the contrary, the commissioner of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation, shall lease to the town of Saugus, for a term of not less than 20 years, a certain parcel of state-owned land known as the Kasabuski Arena, including all buildings, structures or other appurtenances to the land, under the control of the department of conservation and recreation and located in the town of Saugus so as to provide for the continued use, operation, maintenance, repair and improvement of the buildings, structures or other appurtenances. The land is bounded and described as follows:

Beginning at a point on the southwesterly property line of the Breakheart Reservation site and said point also being on the northwesterly street line of Forest Street;  
Thence N24°-21'-32"W, along side of line of Forest Street 119.36 Feet to a point;  
Thence N23°-33'-34"W, along side of Forest Street 294.589 Feet to a point;  
Thence N69°-55'-32"E, a distance of 158.903 Feet to a point;  
Thence S56°-44'-46"E, a distance of 68.785 Feet to a point;  
Thence N86°-44'-05"E, a distance of 270.640 Feet to a point;  
Thence S57°-40'-32"E, a distance of 165.340 Feet to a point;  
Thence S14°-05'-09"E, a distance of 178.190 Feet to a point;  
Thence S72°-52'-18"W, a distance of 257.06 Feet to a point;  
Thence S74°-06'-36"W, a distance of 136.940 Feet to a point;  
Thence S72°-27'-49"W, a distance of 121.350 Feet to the point of beginning at Forest Street.

The land is also shown on a plan titled: Metropolitan District Commission, Parks Division, Breakheart Reservation, Park Parcel, Dated February 3, 1982, and contains 4.286 Acres of land.

(b) There shall be an option for renewal or extension for operations and maintenance services which shall not exceed 5 years and which 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 commonwealth. The lease shall contain a provision that requires the town of Saugus or any sublessee 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 other buildings, structures, or appurtenances, or on the land during the term of the lease.

(c) If the lease requires capital improvements to be made to any buildings or surface areas, the lease shall include a description of the required capital improvements and, at a minimum, performance specifications. In consideration of the lease authorized in section 1, the terms and conditions shall include that the town of Saugus shall compensate the commonwealth an annual rent for the property at the same rate that the town paid in fiscal



year 2006 for the lease of the property and shall take into account any benefits to the commonwealth and the costs of improvements or repairs made to the property. All consideration received from the lease shall be payable to the department of conservation and recreation for deposit into the General Fund. The town of Saugus shall bear all costs deemed 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.

**SECTION 3.** The lease shall include the following terms and conditions: (1) a residential discount program; (2) reservation policies; (3) reasonable rates that shall ensure continued public access; (4) required financial audits; (5) policies to encourage use of the rink by persons of all races and nationalities; (6) safety and security plans; (7) seasonal opening and closing dates; (8) hours of operation; and (9) how the operator shall satisfy ice time allocation guidelines, which shall require that ice time be allocated to user groups in the following priority order: general public skating, non-profit youth groups, school hockey, youth groups other than non-profit youth groups, and adult organizations or informal groups. Ice time may be allocated at the discretion of the operator; provided, however, that general public skating shall be booked at a minimum of 12 hours per week, with a range of times and days which reasonably allow for public skaters of all ages to participate in public skating sessions; and provided further, that 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.

**SECTION 4.** The town of Saugus may sublease the Kasabuski Arena property for the public purposes identified in this act; provided, however, that such a sublease shall be approved by a majority vote of the town of Saugus board of selectmen at an open meeting after a proposed sublease has been posted on the town's website for 1 week and the board of selectmen had the opportunity to receive public input before and during the meeting. The town of Saugus shall seek advice from the department of conservation and recreation when considering bids from potential sublessees.

**SECTION 5.** If the Kasabuski Arena property shall no longer be used for the public purposes identified in this act, upon notice by the commissioner of capital asset management and maintenance, it shall revert to the commonwealth and any further disposition of the property shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

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

Approved June 30, 2008

## **Chapter 167. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF SHEFFIELD AS THE SHEFFIELD VETERANS MEMORIAL BRIDGE.**

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

The bridge numbered S-10-034 on interstate highway route 7 spanning the Housatonic river in the town of Sheffield shall be designated and known as the Sheffield Veterans Memorial Bridge. The department of highways shall erect suitable markers bearing that designation in compliance with the standards of the department.

Approved June 30, 2008

## **Chapter 168. AN ACT RELATIVE TO THE CIGARETTE EXCISE AND HEALTH CARE FUNDING.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the increase of the excise to be paid on cigarettes and the funding of the Commonwealth Care Trust Fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 6 of chapter 64C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:- Every licensee who is required to file a return under section 16 of chapter 62C shall, at the time of filing such return, pay to the commissioner an excise equal to 100½ mills plus any amount by which the federal excise tax on cigarettes is less than 8 mills for each cigarette so sold during the calendar month covered by the return; provided, however, that cigarettes with respect to which the excise under this section has once been imposed and has not been refunded, if paid, shall not be subject upon a subsequent sale to the excise imposed by this section. Each unclassified acquirer shall, at the time of filing a return required by section 16 of chapter 62C, pay to the commissioner an excise equal to 100½ mills plus any amount by which the federal excise tax on cigarettes is less than 8 mills for each cigarette so imported or acquired and held for sale or consumption, and cigarettes, with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under this section.

**SECTION 2.** Said section 6 of said chapter 64C, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding section 28, an amount equal to 50 mills for each cigarette so sold during the calendar month covered by a return filed under section 16 of chapter 62C shall be credited to the Commonwealth Care Trust Fund, established pursuant to section 2000 of chapter 29.

**SECTION 3.** Section 28 of said chapter 64C, as so appearing, is hereby amended

by striking out, in line 1, the words “section seven” and inserting in place thereof the following words:- sections 6 and 7A.

**SECTION 4.** Every manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined in section 1 of chapter 64C of the General Laws, and every stamper appointed by the commissioner of revenue pursuant to section 30 of said chapter 64C, who, as of the commencement of business on July 1, 2008, has on hand any cigarettes for sale or any unused adhesive or meter stamps, shall make and file with the commissioner within 20 days a return, subscribed and sworn to under the penalties of perjury, showing a complete inventory of such cigarettes and stamps and shall, at the time he is required to file such return, pay an additional excise of 50 mills per cigarette on all cigarettes and all unused adhesive and meter stamps upon which an excise of only 75½ mills has previously been paid. All provisions of chapters 62C and 64C of the General Laws relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall apply to the excise imposed by this section.

**SECTION 5.** This act shall take effect as of July 1, 2008.

Approved July 1, 2008

## **Chapter 169. AN ACT RELATIVE TO GREEN COMMUNITIES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for renewable and alternative energy and energy efficiency in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 9A of chapter 7 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 4 paragraphs:-

When purchasing new motor vehicles, the commonwealth shall purchase hybrid or alternative fuel vehicles, as defined in section 1 of chapter 90, to the maximum extent feasible and consistent with the ability of such vehicles to perform their intended functions, at a rate of not less than 5 per cent annually for all new motor vehicle purchases so that, taking into account the existing number of such vehicles owned and operated by the commonwealth, not less than 50 per cent of the motor vehicles owned and operated by the commonwealth shall be hybrid or alternative fuel vehicles by the year 2018.

The division of operational services shall forward to the department of energy resources all requests for motor vehicle acquisitions by agencies of the commonwealth. The department of energy resources shall thereafter report to the division of operational services regarding the availability of a hybrid or alternative fuel vehicle that shall achieve the intended use designated by the requesting agency. The division of operational services, in consulta-



tion with the departments of energy resources and environmental protection, shall adopt a fuel efficiency standard for passenger vehicles owned or operated by the commonwealth.

The division of capital asset management and maintenance, in consultation with the department of energy resources, shall develop a system of protocols for the acquisition of alternative fuel vehicles and hybrids, including identifying the potential for acquisition of heavy, medium and light-duty vehicles, based on the anticipated mileage and usage of such vehicles, and the effectiveness of single-fuel or dual-fuel alternative fuel vehicles for the particular purpose identified.

The division of operational services, jointly with the department of energy resources, and the executive office of energy and environmental affairs shall submit to the secretary of administration and finance, the clerks of the senate and house of representatives and the joint committee on state administration and regulatory oversight an annual statement on or before July 1 each year detailing the progress in meeting the requirements of this section. This report shall include the percentage of fuel used for the alternative fuel vehicles owned and operated by the commonwealth that qualifies as alternative fuel, as defined in section 1 of chapter 90, and the amount and cost of non-alternative fuel foregone as a consequence of the use of alternative fuel.

**SECTION 2.** Said chapter 7 is hereby further amended by inserting after section 39C the following section:-

Section 39D. (a) The commissioner shall require a state agency that initiates the construction of a new facility owned or operated by the commonwealth or a renovation of an existing facility owned or operated by the commonwealth when the renovation costs exceed \$25,000 and includes the replacement of systems, components or other building elements which affect energy or water consumption to design and construct or renovate the facility in a manner that minimizes the life-cycle cost of the facility by utilizing energy efficiency, water conservation or renewable energy technologies under the following criteria:

(1) the state agency shall utilize alternate technologies when the life-cycle cost analysis conducted under subsection (b) shows that such systems are economically feasible;

(2) each new educational facility, including a municipal educational facility financed through the school building assistance program, for which the projected demand for hot water exceeds 1,000 gallons per day or which operates a heated swimming pool, shall be constructed, whenever economically and physically feasible, with a solar or other renewable energy system as the primary energy source for the domestic hot water system or swimming pool of the facility;

(3) the division of capital asset management and maintenance or the state agency shall, in the design, construction, equipping and operation of such facilities, coordinate these efforts with the department of energy resources in order to maximize reliance on, and the benefits of, renewable energy research and investment activities; and

(4) all higher education construction projects shall, at a minimum incorporate the MA-CHPS Green Schools Guidelines standards or an equivalent standard.

(b) The division of capital asset management and maintenance or the state agency initiating the construction or renovation of a facility as described in subsection (a) shall conduct a life-cycle cost analysis of any such facility's proposed design that evaluates the short-term and long-term costs and the technical feasibility of using alternate technologies to provide lighting, heat, water heating, air conditioning, refrigeration, gas or electricity. In calculating life-cycle costs, a state agency shall include the value of avoiding carbon emissions, creating renewable energy certificates and other environmental and associated benefits created from the utilization of alternate technologies, as applicable. This value shall be equal to the bid price of the published market value of any such benefit and shall increase or decrease at a projected rate determined by the department of energy resources. To calculate life-cycle costs, a state agency shall use a discount rate equal to the rate that the commonwealth's tax-exempt long-term bonds are yielding at the time of said calculation and shall assume that the cost of fossil fuels and electricity will increase at the rate of 3 per cent per year above the estimated rate of inflation or at a rate determined by the department of energy resources.

(c) Notwithstanding sections 11C and 11I of chapter 25A or any regulations issued thereunder, the division of capital asset management and maintenance may procure energy management services jointly with a state agency or a building authority that is procuring energy or related services. Said sections 11C and 11I shall apply to the extent feasible as determined by the commissioner of energy resources.

(d) For purposes of this section, the term "economically feasible" shall mean that the cost of installing and operating an alternate technology is lower than the cost of installing and operating the energy, energy-using technology or water-using technology that would otherwise be installed, as determined by a life-cycle cost analysis.

(e) The division of capital asset management and maintenance or the state agency initiating the construction or renovation of a facility subject to the requirements of subsection (a) shall file with the department of energy resources a report detailing the agency's compliance with this section with respect to each such facility.

(f) The department of energy resources shall issue an annual report to the general court detailing the compliance record of all state agencies with the construction and renovation provisions of this section.

**SECTION 3.** Chapter 10 of the General Laws is hereby amended by inserting after section 35HH the following section:-

Section 35II. There shall be established and set up on the books of the commonwealth a separate fund to be known as the RGGI Auction Trust Fund. The fund shall consist of amounts credited to the fund in accordance with section 22 of chapter 21A and expended exclusively for the purposes of said section 22 of said chapter 21A. The fund shall be administered by the commissioner of energy resources, subject to the approval of the secretary of energy and environmental affairs. The fund shall be an expendable trust fund and shall not be subject to appropriation or allotment. The commissioner shall report monthly by source all amounts credited to the fund and all expenditures by subsidiary made

from the fund on the Massachusetts management and accounting reporting system. Amounts remaining in the fund at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure in the next fiscal year and thereafter.

**SECTION 4.** Chapter 12 of the General Laws is hereby amended by striking out section 11E, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 11E. (a) There shall be within the office of the attorney general, an office of ratepayer advocacy. The attorney general, through the office of ratepayer advocacy, may intervene, appear and participate in administrative, regulatory, or judicial proceedings on behalf of any group of consumers in connection with any matter involving rates, charges, prices and tariffs of an electric company, gas company, generator, transmission company, telephone company and telegraph company doing business in the commonwealth and subject to the jurisdiction of the department of public utilities or the department of telecommunications and cable. In addition, the attorney general may intervene, appear and participate in federal energy regulatory commission or other federal energy proceedings on behalf of ratepayers in the commonwealth.

The office of the ratepayer advocacy shall be under the direction of an assistant attorney general appointed under section 2. The assistant attorney general shall devote his full time and attention to the duties of the office.

For the purpose of such an intervention, appearance or participation, the attorney general may expend such funds as may be appropriated. These expenditures shall not exceed annually the amount assessed against such electric, gas, telephone and telegraph company under section 3 of chapter 24A, notwithstanding subsection (b). The attorney general shall not expend any of such funds if the expenditure shall conflict with his duties under section 3.

(b) In the performance of his duties under this section, the attorney general may retain an expert or a consultant to assist in proceedings before the department of public utilities or the department of telecommunications and cable. If the attorney general determines that the services of an expert or a consultant are necessary in a proceeding, he shall file notice in the proceeding that includes the type of expert or consultant sought and the anticipated cost. Upon the filing of such notice, the department before which the proceeding is commencing shall allow full parties to the proceeding the opportunity to comment regarding the necessity or desirability of such services. Absent a showing that the costs proposed are unnecessary for the attorney general to represent ratepayer interests in the proceeding or that such costs are not reasonable or proper, the use of the expert or consultant shall be approved. Costs for an expert or a consultant shall not exceed \$150,000 per proceeding unless approved by the department based upon exigent circumstances, including the complexity of the proceeding. All reasonable and proper expenses, as defined in this section, shall be borne by the affected party in the proceeding and shall be paid by such party at such times and in such manner as the attorney general directs. All reasonable and proper costs and expenses, as defined in this section, shall be recognized by the departments for all purposes as proper business expenses



of the affected party, recoverable through rates without further approval from the departments.

(c) The attorney general may request, orally or in writing, that any company subject to the jurisdiction of the department of public utilities or the department of telecommunications and cable respond to not more than 15 information requests, including subparts, per calendar month regarding any matter related to the rates, charges, tariffs, books or service quality of the company, and the company shall answer these information requests fully and completely in a reasonably prompt manner, not to exceed 30 calendar days from the date of issuance, regarding any issue that is within the jurisdiction of the department. Department rules pertaining to the scope of questions and objections to discovery shall apply to any such request and the department shall have jurisdiction to rule on any objections or motions to compel. If the company fails to answer the information requests in a reasonably prompt manner, the attorney general may request enforcement of this subsection from the department having jurisdiction over the company.

**SECTION 5.** Chapter 13 of the General Laws is hereby amended by inserting after section 97 the following section:-

Section 97A. The board of registration of home inspectors, in consultation with the state board of building regulations and standards, the executive office of energy and environmental affairs and the energy efficiency advisory council, shall develop requirements and adopt regulations to require documents to be provided to a buyer of a single-family residential dwelling or a multiple-family residential dwelling with less than 5 dwelling units, or a condominium unit at the time of closing, outlining the procedures and benefits of a home energy audit; provided however, that no additional fees shall be imposed or collected in connection with the provision of such documents.

**SECTION 6.** Section 7 of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out, in the first sentence, the word "division" and inserting in place thereof the following word:- department.

**SECTION 7.** Said chapter 21A is hereby further amended by adding the following 2 sections:-

Section 21. The secretary, in conjunction with the secretary of administration and finance, shall design and implement a bidding process for the competitive procurement of electric generation on behalf of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth procuring electricity from a local distribution company via basic service under section 1B of chapter 164. Any such competitive bid received shall include payment options with rates that remain uniform for a minimum period of 1 year. In lieu of designing and implementing a competitive bidding process as required by this section, the secretary may become a member of programs organized and administered by the Health and Educational Facilities Authority or its subsidiary organization for the purpose of such competitive group purchasing of electricity.

Section 22. (a) As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Allowance”, an authorization to emit a fixed amount of carbon dioxide.

“Cap and trade program”, a policy approach for controlling emissions from a group of emitting sources, such as electric generating stations, at a total cost that is expected to be lower than if sources were regulated individually by setting an overall cap or maximum amount of emissions from all regulated sources per compliance period that will achieve the desired environmental effects; provided, however, that a certain number of authorizations to emit in the form of emissions allowances shall be created, issued and made available to persons, companies, organizations or other entities through a sale by auction or direct allocation; and provided further that the total number of allowances made available in a compliance period shall not exceed the cap.

“Department”, department of environmental protection.

“RGGI” or “Regional Greenhouse Gas Initiative”, the Memorandum of Understanding dated December 20, 2005, and any amendments thereto and the corresponding Model Rule and any amendments thereto that establishes a cap and trade program within the northeast region of the United States and other regions to the extent that the Memorandum of Understanding is amended.

(b) The department, in consultation with the department of energy resources, shall adopt rules and regulations establishing a carbon dioxide cap and trade program to limit and reduce the total carbon dioxide emissions released by electric generating stations that generate electric power. The rules and regulations shall comply with RGGI and permit the holders of carbon dioxide allowances to trade them in a regional market to be established through the RGGI.

(c)(1) The department shall provide, by regulation that all allowances issued under the program shall be offered for sale by auction. The proceeds recovered from the allowance auctions shall be deposited in the RGGI Auction Trust Fund established in section 35II of chapter 10. The proceeds shall be used without further appropriation for the following purposes only and shall be in a proportion to be determined by the department of energy resources with the approval of the secretary:

(i) to reimburse a municipality in which the property tax receipts, including, for the purposes of this clause, payments in lieu of taxes, are reduced as a result of the mandates of RGGI or the regulation of carbon dioxide emissions from electric generating stations; provided, however, that the amount of the payment shall be the difference between the amount of the tax receipts in the current tax year and the amount of the tax receipts in the year before implementation of RGGI; provided further, that no reimbursement shall be made if, in a tax year, the aggregate amount paid to a municipality by the owner of an electric generating station including, but not limited to, payments in lieu of taxes and property taxes, exceeds the aggregate amount paid to that municipality by that owner in the year before implementation of RGGI; and provided further, that payments from the fund shall be prioritized so that the first payments from the fund shall be made to municipalities under this clause;

(ii) to fund the green communities program established in section 10 of chapter 25A;

(iii) to provide zero interest loans to municipalities, which are not green communities under section 10 of chapter 25A for energy efficiency projects;

(iv) to promote energy efficiency, conservation and demand response; and

(v) to reimburse the commonwealth for costs associated with the administration of the cap and trade program.

(2) Notwithstanding this section, the department may set aside up to 1 per cent of the commonwealth's annual allocation of allowances to support the voluntary green power market which enables electricity consumers to support the development of renewable resources.

(d) The department of energy resources shall adopt regulations governing the auction of allowances. The department of energy resources may hire an independent contractor determined by the office to be qualified to conduct the auction in a manner that ensures the efficiency of the auction, or may provide for participation in a regional auction.

(e) The responsibilities created by establishing a carbon dioxide cap and trade program shall be in addition to any other responsibilities imposed by any other general or special law or rule or regulation and shall not diminish or reduce any power or authority of the department, including the authority to adopt standards and regulations necessary for the commonwealth to join and fully participate in a multistate program at any stage in the development and implementation of such a program intended to control emissions of carbon dioxide or other substances that are determined by the department to be damaging or altering the climate.

(f) Notwithstanding any general or special law or rule or regulation to the contrary, the state comptroller shall grant a permanent waiver or exemption from any applicable charges or assessments made against the proceeds from the auction of allowances under this section by the office of the comptroller under its authority under sections 5D of chapter 29.

(g) Notwithstanding any general or special law or regulation to the contrary, any information required by the department of energy resources or the department of any party participating in the cap and trade program, with the exception of any emission, offset and allowance tracking information required for compliance with the cap and trade program, shall be maintained for the sole and confidential use of the commonwealth, the department, the department of energy resources and their agents. This information shall not be deemed to be a public record as defined in clause Twenty-sixth of section 7 of chapter 4 and shall not be subject to demand for production under section 10 of chapter 66. Aggregates of such information may be prepared and such aggregates shall be public records. All information collected under this section may be shared with other states which afford such information similar protection from public disclosure.

**SECTION 8.** Clause (ii) of subsection (a) of section 3D of chapter 23A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 50, the word "space." and inserting in place thereof the following:- space;

(K) the area has been designated by the municipality as an area with potential for the



development of a Class I renewable energy generating sources, as defined by section 11F of chapter 25A.

**SECTION 9.** Chapter 25 of the General Laws is hereby amended by inserting after section 5D the following section:-

Section 5E. The department may, from time to time, audit all companies subject to its jurisdiction, except steam distribution companies. Such audits may include, but shall not be limited to, review of the following documents: (a) all financial statements, the balance sheet, the income statement, the statement of cash flows, the statement of retained earnings, the notes to the financial statements, and the information in the annual return to the department; (b) all documents concerning reconciling mechanisms related to rates, prices, charges, or costs and savings related to a merger, acquisition or consolidation within 3 years after the merger, acquisition or consolidation; and (c) documents concerning service quality measure statistics and service quality performance at least every 3 years or whenever service quality penalties equal to or exceed 50 per cent of the maximum.

Upon written complaint of the attorney general requesting an independent audit of a company subject to the department's jurisdiction, the department shall commence a proceeding within 30 days of receipt of the complaint for the purpose of ordering the requested audit in a reasonable time. The results of any audit so ordered shall be filed promptly with the department and each audit shall be paid for by the company that is the subject of the audit.

**SECTION 10.** Said chapter 25 is hereby further amended by inserting after section 18 the following section:-

Section 18A. The commission may make an assessment against each steam distribution company under the jurisdictional control of the department. Each steam distribution company shall annually report by March 31 its intrastate operating revenues for the previous calendar year to the department. The assessments shall be apportioned according to each steam distribution company's intrastate operating revenues, to produce an annual amount not greater than \$600,000, as shall be determined and certified annually by the commission as sufficient to reimburse the commonwealth for funds appropriated by the general court for the operation and general administration of the department and for the cost of fringe benefits as established by the commissioner of administration under section 5D of chapter 29, including group life and health insurance, retirement benefits, paid vacations, holidays and sick leave.

Each company shall pay the amount assessed against it within 30 days after receipt of the notice of assessment from the department. Such assessments collected by the department shall be credited to the General Fund. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount.

**SECTION 11.** Said chapter 25 is hereby further amended by striking out sections



19 and 20, as appearing in the 2006 Official Edition, and inserting in place thereof the following 4 sections:-

Section 19. (a) The department shall require a mandatory charge of 2.5 mills per kilowatt-hour for all consumers, except those served by a municipal lighting plant, to fund energy efficiency programs including, but not limited to, demand side management programs. The programs shall be administered by the electric distribution companies and by municipal aggregators with energy plans certified by the department under subsection (b) of section 134 of chapter 164. In addition to the aforementioned mandatory charge, such programs shall also be funded, without further appropriation, by: (1) amounts generated by the distribution companies and municipal aggregators under the Forward Capacity Market program administered by ISO -NE, as defined in section 1 of chapter 164; and (2) cap and trade pollution control programs, including, but not limited to, and subject to section 22 of chapter 21A, not less than 80 per cent of amounts generated by the carbon dioxide allowance trading mechanism established under the Regional Greenhouse Gas Initiative Memorandum of Understanding, as defined in subsection (a) of section 22 of chapter 21A, and the NOx Allowance Trading Program; and (3) other funding as approved by the department after consideration of: (i) the effect of any rate increases on residential and commercial consumers; (ii) the availability of other private or public funds, utility administered or otherwise, that may be available for energy efficiency or demand resources; and (iii) whether past programs have lowered the cost of electricity to residential and commercial consumers. In authorizing such programs, the department shall ensure that they are delivered in a cost-effective manner capturing all available efficiency opportunities, minimizing administrative costs to the fullest extent practicable and utilizing competitive procurement processes to the fullest extent practicable.

(b) The department may approve and fund gas energy efficiency programs proposed by gas distribution companies including, but not limited to, demand side management programs. Energy efficiency activities eligible for funding under this section shall include combined heat and power and geothermal heating and cooling projects. Funding may be supplemented by funds authorized by section 21. The programs shall be administered by the gas distribution companies. In authorizing such programs, the department shall ensure that they are delivered in a cost-effective manner capturing all available efficiency opportunities, minimizing administrative costs to the fullest extent practicable and utilizing competitive procurement processes to the fullest extent practicable.

(c) Electric and gas energy efficiency program funds shall be allocated to customer classes, including the low-income residential subclass, in proportion to their contributions to those funds; provided, however, that at least 10 per cent of the amount expended for electric energy efficiency programs and at least 20 per cent of the amount expended for gas energy efficiency programs shall be spent on comprehensive low-income residential demand side management and education programs. The low-income residential demand side management and education programs shall be implemented through the low-income weatherization and fuel assistance program network and shall be coordinated with all electric



and gas distribution companies in the commonwealth with the objective of standardizing implementation. Such programs shall be screened only through cost-effectiveness testing which compares the value of program benefits to program costs to ensure that a program is designed to obtain energy savings and system benefits with value greater than the costs of the program.

Section 20. (a) The department shall require a mandatory charge of 0.5 mill per kilowatt-hour for all electricity consumers, except those served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to support the development and promotion of renewable energy projects. All revenues generated by the mandatory charge shall be deposited into the Massachusetts Renewable Energy Trust Fund, established under section 4E of chapter 40J.

(b) Notwithstanding any general or special law to the contrary: (1) a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition may elect to assess and remit a mandatory charge per kilowatt-hour upon its electricity consumers on the same terms and conditions as apply to the charge imposed on consumers residing in competitive distribution service territories under this section; provided, however, that such an election by a municipal lighting plant shall be irrevocable and such a municipal lighting plant shall not be deemed to be supplying generation service outside its service territory or opening its service territory to competition at the retail level for the purposes of the first sentence of subsection (a); and (2) in administering the Massachusetts Renewable Energy Trust Fund, the Massachusetts Technology Park Corporation, doing business as the Massachusetts Technology Collaborative, or the governing board, as applicable, shall not make any grant or loan or provide any subsidy from the trust fund to any municipal lighting plant or consumer residing in the distribution service territory of such municipal lighting plant unless: (A) a mandatory charge per kilowatt-hour is assessed against all consumers residing in the distribution service territory and remitted to the collaborative under the first sentence of subsection (a) or clause (1); or (B) the board of directors of the collaborative, as a condition precedent to any such grant, loan or subsidy, shall have determined and incorporated into the minutes of its proceedings findings that: (i) any such grant, loan or subsidy is intended for the principal purpose of generating public benefits for those consumers who reside in distribution service territories in which the mandatory charge is so imposed and remitted and will generate only incidental private benefits to the recipient or others residing in a distribution service territory in which the mandatory charge is not so imposed and remitted; and (ii) the facts and circumstances associated with the recipient or the residence of the recipient provide unique or extraordinary opportunities to advance the public purposes of the trust fund over those opportunities available through grants or subsidies made to recipients residing in distribution service territories in which such a mandatory charge is assessed and remitted.

Section 21. (a) To mitigate capacity and energy costs for all customers, the department shall ensure that, subject to subsection (c) of section 19, electric and natural gas



resource needs shall first be met through all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply. The cost of supply shall be determined by the department with consideration of the average cost of generation to all customer classes over the previous 24 months.

(b)(1) Every 3 years, on or before April 30, the electric distribution companies and municipal aggregators with certified efficiency plans shall jointly prepare an electric efficiency investment plan and the natural gas distribution companies shall jointly prepare a natural gas efficiency investment plan. Each plan shall provide for the acquisition of all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply and shall be prepared in coordination with the energy efficiency advisory council established by section 22. Each plan shall provide for the acquisition, with the lowest reasonable customer contribution, of all of the cost effective energy efficiency and demand reduction resources that are available from municipalities and other governmental bodies.

(2) A plan shall include: (i) an assessment of the estimated lifetime cost, reliability and magnitude of all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply; (ii) the amount of demand resources, including efficiency, conservation, demand response and load management, that are proposed to be acquired under the plan and the basis for this determination; (iii) the estimated energy cost savings that the acquisition of such resources will provide to electricity and natural gas consumers, including, but not limited to, reductions in capacity and energy costs and increases in rate stability and affordability for low-income customers; (iv) a description of programs, which may include, but which shall not be limited to: (A) efficiency and load management programs; (B) demand response programs; (C) programs for research, development and commercialization of products or processes which are more energy-efficient than those generally available; (D) programs for development of markets for such products and processes, including recommendations for new appliance and product efficiency standards; (E) programs providing support for energy use assessment, real time monitoring systems, engineering studies and services related to new construction or major building renovation, including integration of such assessments, systems, studies and services with building energy codes programs and processes, or those regarding the development of high performance or sustainable buildings that exceed code; (F) programs for the design, manufacture, commercialization and purchase of energy-efficient appliances and heating, air conditioning and lighting devices; (G) programs for planning and evaluation; (H) programs providing commercial, industrial and institutional customers with greater flexibility and control over demand side investments funded by the programs at their facilities; and (I) programs for public education regarding energy efficiency and demand management; provided, however, that not more than 1 per cent of the fund shall be expended for items (C) and (D) collectively, without authorization from the advisory council; (v) a proposed mechanism which provides performance incentives to the companies based on their success

in meeting or exceeding the goals in the plan; (vi) the budget that is needed to support the programs; (vii) a fully reconciling funding mechanism which may include, but which shall not be limited to, the charge authorized by section 19; (viii) the estimated amount of reduction in peak load that will be reduced from each option and any estimated economic benefits for such projects, including job retention, job growth or economic development; and (ix) data showing the percentage of all monies collected that will be used for direct consumer benefit, such as incentives and technical assistance to carry the plan. With the approval of the council, the plan may also include a mechanism to prioritize projects that have substantial benefits in reducing peak load, reducing the energy consumption or costs of municipalities or other governmental bodies, or that have economic development, job creation or job retention benefits.

(3) A program included in the plan shall be screened through cost-effectiveness testing which compares the value of program benefits to the program costs to ensure that the program is designed to obtain energy savings and system benefits with value greater than the costs of the program. Program cost effectiveness shall be reviewed periodically by the department and by the energy efficiency advisory council. If a program fails the cost-effectiveness test as part of the review process, it shall either be modified to meet the test or shall be terminated.

(c) Each plan prepared under subsection (b) shall be submitted for approval and comment by the energy efficiency advisory council every 3 years on or before April 30. The electric and natural gas distribution companies and municipal aggregators shall provide any additional information requested by the council that is relevant to the consideration of the plan. The council shall review the plan and any additional information and shall submit its approval or comments to the electric and natural gas distribution companies and municipal aggregators not later than 3 months after submission of the plan. The electric and natural gas distribution companies and municipal aggregators may make any changes or revisions to reflect the input of the council.

(d)(1) The electric and natural gas distribution companies and municipal aggregators shall submit their respective plans, together with the council's approval or comments and a statement of any unresolved issues, to the department every 3 years on or before October 31. The department shall consider the plans and shall provide an opportunity for interested parties to be heard in a public hearing.

(2) Not later than 90 days after submission of a plan, the department shall issue a decision on the plan which ensures that the electric and natural gas distribution companies have identified and shall capture all energy efficiency and demand reduction resources that are cost effective or less expensive than supply and shall approve, modify and approve, or reject and require the resubmission of the plan accordingly. The department shall approve a fully reconciling funding mechanism for the approved plan and, in the case of municipal aggregators, a fully reconciling funding mechanism that requires coordination between the distribution company and municipal aggregator to ensure that program costs are collected,



allocated and distributed in a cost effective, fair and equitable manner. The department shall determine the effectiveness of the plan on an annual basis.

(3) Each electric and natural gas plan shall be in effect for 3 years.

(e) If an electric or natural gas distribution company or municipal aggregator has not reasonably complied with the plan, the department may open an investigation. In any such investigation, the utility company or aggregator shall have the burden of proof to show whether it had good cause for failing to reasonably comply with the plan. If the utility company or aggregator does not meet its burden, the department may levy a fine of not more than the product of \$0.05 per kilowatt-hour or \$1 per therm times the shortfall of kilowatt-hours saved or therms saved, as applicable, depending upon the facts and circumstances and degree of fault, which shall be paid to the Massachusetts Technology Park Corporation within 60 days after the end of the year in which the department levies the fine. The fine shall not impact ratepayers. The department of energy resources shall oversee the use of the funds held by the Massachusetts Technology Park Corporation under this subsection so as to maximize the amount of energy efficiency achieved.

Section 22. (a) The department shall appoint and convene an energy efficiency advisory council which shall consist of 11 members, including 1 person representing each of the following: (1) residential consumers, (2) the low-income weatherization and fuel assistance program network, (3) the environmental community, (4) businesses, including large C&I end-users, (5) the manufacturing industry, (6) energy efficiency experts, (7) organized labor, (8) the department of environmental protection, (9) the attorney general, (10) the executive office of housing and economic development, and (11) the department of energy resources. Interested parties shall apply to the department for designation as members. Members shall serve for terms of 5 years and may be reappointed. The commissioner of energy resources shall serve as chair of the council. A member who is a representative of energy efficiency experts shall not have a contractual relationship with an electric or natural gas distribution company doing business in the commonwealth or any affiliate of such company, or any municipal aggregator. There shall be 1 non-voting, ex-officio member from each of the electric and natural gas distribution companies, 1 from each of the approved municipal aggregators, 1 from the heating oil industry and 1 from energy efficiency businesses.

(b) The council shall, as part of the approval process by the department, seek to maximize net economic benefits through energy efficiency and load management resources and to achieve energy, capacity, climate and environmental goals through a sustained and integrated statewide energy efficiency effort. The council shall review and approve demand resource program plans and budgets, work with program administrators in preparing energy resource assessments, determine the economic, system reliability, climate and air quality benefits of efficiency and load management resources, conduct and recommend relevant research, and recommend long term efficiency and load management goals to maximize economic savings and achieve environmental goals. Approval of efficiency and demand resource plans and budgets shall require a two-thirds majority vote. The council shall, as part



of its review of plans, examine opportunities to offer joint programs providing similar efficiency measures that save more than 1 fuel resource or to coordinate programs targeted at saving more than one fuel resource. Any costs for joint programs shall be allocated equitably among the efficiency programs.

(c) The council may retain expert consultants; provided, however, that such consultants shall not have any contractual relationship with an electric or natural gas distribution company doing business in the commonwealth or any affiliate of such company.

The council shall annually submit to the department a proposal regarding the level of funding required for the retention of expert consultants and reasonable administrative costs. The proposal shall be approved by the department either as submitted or as modified by the department. The department shall allocate funds sufficient for these purposes from the natural gas and electric efficiency funding authorized under section 19; provided, however, that such allocation shall not exceed 1 per cent of such funding on an annual basis. The consultants used under this section shall be experts in energy efficiency and shall be independent.

(d) The electric and natural gas distribution companies and municipal aggregators shall provide quarterly reports to the council on the implementation of their respective plans. The reports shall include a description of the program administrator's progress in implementing the plan, a summary of the savings secured to date and such other information as the council shall determine. The council shall provide an annual report to the department and the joint committee on telecommunications, utilities and energy on the implementation of the plan which includes descriptions of the programs, expenditures, cost-effectiveness and savings and other benefits during the previous year.

**SECTION 12.** Chapter 25A of the General Laws, as so appearing, is hereby amended by striking out sections 1 to 3, inclusive, as amended by section 28 of chapter 19 of the acts of 2007, and inserting in place thereof the following 3 sections:-

Section 1. There shall be within the executive office of energy and environmental affairs a department called the department of energy resources, under the supervision of a commissioner of energy resources, hereinafter the commissioner. The duties given to the commissioner in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary of energy and environmental affairs. The commissioner shall be appointed by the secretary of energy and environmental affairs, with the approval of the governor, and may, with like approval, be removed. The commissioner shall be a person of skill and experience in the field of energy regulation or policy and shall serve a term coterminous with that of the governor. The position of commissioner shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The commissioner shall devote full time during business hours to the duties of the office. In the case of an absence or vacancy in the office of the commissioner, or in the case of disability as determined by the secretary, the secretary may designate an acting commissioner to serve

as commissioner until the vacancy is filled or the absence or disability ceases. The acting commissioner shall have all the powers and duties of the commissioner and shall have similar qualifications as the commissioner.

Section 2. The commissioner shall be the executive and administrative head of the department of energy resources and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof.

There shall be within the department 3 divisions: (i) a division of energy efficiency, which shall work with the department of public utilities regarding energy efficiency programs; (ii) a division of renewable and alternative energy development, which shall oversee and coordinate activities that seek to maximize the installation of renewable and alternative energy generating sources that will provide benefits to ratepayers, advance the production and use of biofuels and other alternative fuels as the division may define by regulation, and administer the renewable portfolio standard and the alternative portfolio standard; and (iii) a division of green communities, which shall serve as the principal point of contact for municipalities and other governmental bodies concerning all matters under the jurisdiction of the department of energy resources. Each division shall be headed by a director who shall be appointed by the commissioner and who shall be a person of skill and experience in the field of energy efficiency, renewable energy or alternative energy, and energy regulation or policy, respectively. The directors shall be the executive and administrative heads of their respective divisions and shall be responsible for administering and enforcing the law relative to such division and to each administrative unit thereof under the supervision, direction and control of the commissioner. The directors shall serve at the pleasure of the commissioner, shall receive such salary as may be determined by law and shall devote full time during business hours to the duties of the office. In the case of an absence or vacancy in the office of the director, or in the case of disability as determined by the commissioner, the commissioner may designate an active director to serve as director until the vacancy is filled or the absence or disability ceases. The acting director shall have all the powers and duties of the director and shall have similar qualifications as the director.

The commissioner may, from time to time, subject to appropriation, establish within the department such administrative units as may be necessary for the efficient and economical administration of the department and, when necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or more of them, as the commissioner deems advisable. The commissioner shall prepare and keep current a statement of the organization of the department, of the assignment of its functions to its various administrative units, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the department's description of organization. A current copy of the description of organization shall be kept on file in the office of the secretary of state and in the office of the secretary of administration.

Section 3. For the purposes of this chapter the following words shall have the following meanings:-

“Alternative energy development”, shall include but not be limited to solar energy, wood, alcohol, hydroelectric, biomass energy systems, renewable non-depletable and recyclable energy sources.

“Alternative energy property”, any property powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, or any renewable, non-depletable or recyclable fuel, and property related to the exploration, development, processing, transportation and distribution of the aforementioned energy resources.

“Building authority”, the University of Massachusetts Building Authority, the State College Building Authority or any other building authority which may be established for similar purposes.

“Commissioner”, the commissioner of energy resources.

“Department”, the department of energy resources.

“Eligible”, able to meet all requirements for offerors or bidders set forth in section 11C or 11I and section 44D of chapter 149 and not barred from bidding under section 44C of said chapter 149 or any other applicable law, and who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work.

“End-user”, any individual, corporation, firm or subsidiary of any firm that is an ultimate consumer of petroleum products and which, as part of its normal business practices, purchases or obtains petroleum products from a wholesaler or reseller and receives delivery of that product.

“Energy audit”, a determination of the energy consumption characteristics of a building or facility which: (a) identifies the type, size and rate of energy consumption of such building or facility and the major energy using systems of such building or facility; (b) determines appropriate energy conservation maintenance and operating procedures; and (c) indicates the need, if any, for the acquisition and installation of energy conservation measures or alternative energy property.

“Energy conservation”, shall include but not be limited to the modification of or change in the operation of real or personal property in a manner likely to improve the efficiency of energy use, and shall include energy conservation measures and any process to audit or identify and specify energy and cost savings.

“Energy conservation measures”, measures involving modifications of 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 or 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 weatherstripping; 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; de-



vices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions; replacement or modification of lighting fixtures; energy recovery systems; on-site electrical generation equipment using new renewable generating sources as defined in section 11F; 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 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 such services.

“Energy savings”, a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of energy conservation measures or projects; provided, however, that any payback analysis to evaluate the energy savings of a geothermal energy system to provide heating, cooling or water heating over its expected lifespan shall include gas and electric consumption savings, maintenance savings and shall use an average escalation rate based on the most recent information for gas and electric rates compiled by the Energy Information Administration of the United States Department of Energy.

“Local governmental body”, a city, town, district, regional school district or county, or an agency or authority thereof, including a housing authority, board, commission, department or instrumentality of a city, town district, regional school district or county, and any other agency which is not a state agency or building authority; or a combination of 2 or more such cities, towns, districts, regional school districts or counties, or agencies or authorities thereof.

“Marine or hydrokinetic energy”, electrical energy from: (a) waves, tides and currents in oceans, estuaries and tidal areas; (b) free-flowing water in rivers, lakes and streams; (c) free-flowing water in man-made channels; or (d) differentials in ocean temperature, called ocean thermal energy conversion.

“Minor informalities”, minor deviations, insignificant mistakes and matters of form rather than substance of the proposal or contract document which may be waived or corrected without prejudice to other offerors, potential offerors or the public agency.

“Non-renewable energy supply and resource development”, shall include but not be limited to gasoline, natural gas, coal, nuclear energy, offshore and onshore petroleum, and facilities related to the exploration, development, processing, transportation and distribution of such resources and programs established for the allocation of supplies of such resources and the development of supply shortage contingency plans.

“Person”, any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

“Petroleum products”, propane, gasoline, unleaded gasoline, kerosene, #2 heating oil, diesel fuel, kerosene base jet fuel, and #4, 5, and 6 residual oil for utility and non-utility uses, and all petroleum derivatives, whether in bond or not, which are commonly burned to produce heat, power, electricity or motion or which are commonly processed to produce synthetic gas for burning.

“Qualified provider”, responsible and eligible person able to meet all requirements set forth in section 11C or 11I, and not barred 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.

“Reseller”, any person, corporation, firm or subsidiary of any firm that carries on the trade or business of purchasing petroleum products and reselling them without substantially changing their form or any wholesaler or retail seller of electricity or natural gas.

“Responsible”, demonstrably possessing the skill, ability and integrity necessary to faithfully perform the work required by a particular contract, based upon a determination of competent workmanship and financial soundness in accordance with section 11C or 11I and section 44D of chapter 149.

“Responsive offeror”, a person who has submitted a proposal which conforms in all respects to the requests for proposals.

“State agency”, any agency, authority, board, bureau, commission, committee, council, department, division, institution, officer or other agency of the commonwealth, including quasi-public agencies.

“Wholesaler”, any person, corporation, firm or any part or subsidiary of any firm which supplies, sells, transfers or otherwise furnishes petroleum products to resellers or end-users.

**SECTION 13.** Section 5 of said chapter 25A, as appearing in the 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commissioner shall file an annual report with the clerks of the senate and the house of representatives, the joint committee on telecommunications, utilities and energy and the senate and house committees on ways and means: (a) listing the number of employees of the department of energy resources, the salaries and titles of each employee, the source of funding for the salaries of said employees and the projected date when federal funds for such positions are expected to terminate; (b) listing and describing grant programs of the department funded by the federal government, including the amount of funding by grant; (c) listing and describing other programs of the department, including the amount and source of funding by program; and (d) describing the energy audit, energy conservation and alternative energy bond programs by categories of projects, prospective grantees under each category, if known, and amounts to be spent by category and grantee.

**SECTION 14.** Section 6 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 1, the words “division of energy resources” and inserting in place thereof the following word:- department.

**SECTION 15.** Said section 6 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 38, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

**SECTION 16.** Section 7 of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 1, in lines 21 and 22, and in line 29, the words “division of energy resources” and inserting in place thereof, in each instance, the following word:- department.

**SECTION 17.** Said section 7 of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 8, 22, 30, 32, 39, 49 and 50 the word “division” each time it appears, and inserting in place thereof the following word:- department.

**SECTION 18.** Said section 7 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 40, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

**SECTION 19.** Section 8 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 12, the words “division of energy resources” and inserting in place thereof the following word:- department.

**SECTION 20.** Section 9 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 2, the words “of energy resources”.

**SECTION 21.** Said section 9 of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words “division of energy resources” and inserting in place thereof the following word:- department.

**SECTION 22.** Said chapter 25A is hereby amended by striking out section 10, as so appearing, and inserting in place thereof the following 2 sections:-

Section 10. (a) The division of green communities shall assist the commonwealth’s municipalities and other local governmental bodies to: reduce energy consumption and costs, reduce pollution, facilitate the development of renewable and alternative energy resources, and create local jobs related to the building of renewable and alternative energy facilities and the installation of energy-efficient equipment. The director of the division shall be responsible for the administration and oversight of the green communities program and shall apply and disburse monies and revenues as provided in this section.

(b) The division shall establish a green communities program. The purpose of the program shall be to provide technical and financial assistance, in the form of grants and loans, to municipalities and other local governmental bodies that qualify as green communities under this section. These loans and grants shall be used to finance all or a portion of the costs of studying, designing, constructing and implementing energy efficiency activities, including but not limited to, energy conservation measures and projects; procurement of energy management services; installation of energy management systems; adoption of demand side reduction initiatives; and the adoption of energy efficiency policies. They shall also be used to finance the siting and construction of renewable and alternative energy projects on municipally-owned land.

(c) To qualify as a green community, a municipality or other local governmental body shall: (1) file an application with the division in a form and manner to be prescribed by the division; (2) provide for the as-of-right siting of renewable or alternative energy generating facilities, renewable or alternative energy research and development facilities, or renewable or alternative energy manufacturing facilities in designated locations; (3) adopt an expedited application and permitting process under which these energy facilities may be sited within the municipality and which shall not exceed 1 year from the date of initial application to the



date of final approval; (4) establish an energy use baseline inventory for municipal buildings, vehicles and street and traffic lighting, and put in place a comprehensive program designed to reduce this baseline by 20 per cent within 5 years of initial participation in the program; (5) purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable; and (6) require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to minimize, to the extent feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies. The secretary may waive these requirements based on a written finding that due to unusual circumstances, a municipality cannot reasonably meet all of the requirements and the municipality has committed to alternative measures that advance the purposes of the green communities program as effectively as adherence to the requirements.

(d) Funding for the green communities program in any single fiscal year shall be available, without the need for further appropriation, in a total amount of not more than \$10 million from: (1) monies generated by all cap and trade pollution control programs, including, but not limited to, the cap and trade program established under the NOx Allowance Trading Program and the carbon dioxide allowance trading mechanism established under the Regional Greenhouse Gas Initiative, as defined in subsection (a) of section 22 of chapter 164; (2) such amounts as may be directed to municipalities or other governmental bodies under section 19 of chapter 25; (3) amounts from alternative compliance payments established and administered under 225 CMR 14.00 adopted under section 11F; and (4) other funds as the governing board of the Massachusetts Renewable Energy Trust Fund established under section 4E of chapter 40J, may provide.

(e) The division shall adopt rules, regulations and guidelines for the administration and enforcement of this section, including, but not limited to, establishing applicant criteria, funding priority, application forms and procedures, and energy efficiency product requirements. The division shall also adopt regulations providing for a separate green communities program for those communities served by municipal lighting plants that have chosen to adopt the renewable energy charge under section 20 of chapter 25.

(f) The division shall annually, not later than April 1, submit a report to the clerks of the senate and the house of representatives, the joint committee on telecommunications, utilities and energy, the joint committee on state administration and regulatory oversight, and the senate and house committees on ways and means detailing the expenditures and results relative to the green communities program.

Section 10A. The division shall design and implement a competitive bidding procedure for the procurement of electric generation from renewable and alternative generating facilities on behalf of municipalities certified as green communities under section 10. Any competitive bids received shall include payment options with rates that remain uniform for a minimum of 5 years. In lieu of designing and implementing a competitive bidding process as required by this section, the director may become a member of programs

organized and administered by the Health and Educational Facilities Authority or its subsidiary organization for the purpose of such competitive group purchasing of electricity.

**SECTION 23.** Said chapter 25A is hereby further amended by striking out section 11C, as so appearing, and inserting in place thereof the following section:-

Section 11C. (a) A state agency or building authority may, in the manner provided by this section, contract for the procurement of energy management services. Such contracts may include terms of not more than 20 years. The state agency or building authority shall solicit competitive sealed proposals through a request for proposals. At least 1 week prior to soliciting proposals for a contract under this section, the agency or authority shall notify the commissioner in writing, in such form and including such information as the commissioner shall prescribe by regulation, of the intent to solicit proposals. Such notification shall, at a minimum, include a complete copy of the request for proposals. An acknowledgment of receipt, in such form and including such information as the commissioner shall prescribe by regulation, shall be issued to the state agency or building authority upon successful compliance with the requirements of this paragraph.

Requests for proposals for an energy management services contract to be entered into on behalf of a state agency or a building authority, except a quasi-public agency, shall be developed jointly by the division of capital asset management and maintenance and the using agency. Such proposals shall only be solicited by the division of capital asset management and maintenance after the commissioner of the division has given prior written approval, and no contract for energy management services shall be valid unless approved and signed by that commissioner. A quasi-public agency may develop a request for proposal and enter into a contract for energy management services independently. The commissioner of capital asset management and maintenance may delegate to state agencies and building authorities the authority to enter into such contracts with an estimated construction cost of less than \$1 million. The delegation shall be in writing from the commissioner to the using agency or building authority.

The request for proposals published by a state agency or building authority shall include: (1) the time and date for receipt of proposals and the address of the office to which the proposals shall be delivered; (2) a description of the services to be procured, including specific requirements and all evaluation criteria that will be utilized by the state agency or building authority; and (3) proposed contract terms and conditions and an identification of such terms and conditions which shall be deemed mandatory and non-negotiable. The request for proposals may incorporate documents by reference, provided that the request for proposals specifies where prospective offerors may obtain the documents. The state agency or building authority shall make copies of the request for proposals available to all persons on an equal basis. Public notice of the request for proposals shall conform to the procedures set forth in subsection (1) of section 44J of chapter 149. Proposals shall be opened publicly, in the presence of 2 or more witnesses, at the time specified in the request for proposals, and shall be available for public inspection.

Sections 44A, 44B and 44E through 44H, inclusive, of chapter 149 shall not apply to contracts procured under this section. Section 44D of chapter 149 shall apply as appropriate to proposals submitted for contracts under this section, and every such proposal shall be accompanied by: (1) a copy of a certificate of eligibility issued by the commissioner of the division of capital asset management and maintenance; and (2) an update statement. The offeror's qualifications shall be evaluated by the division of capital asset management and maintenance in a manner designated by the commissioner of that division. If the state agency or building authority determines that any offeror is not responsible or eligible, the agency or authority shall reject the offeror, and shall give written notice of such action to the division of capital asset management and maintenance.

State agencies and building authorities shall award contracts under this section to the lowest offeror demonstrably possessing the skill, ability and integrity necessary to perform faithfully energy management services.

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.

(b) A local governmental body may, in the manner provided in this subsection, contract for the procurement of energy management services. Unless no other manner of description suffices, and the local governmental body so determines in writing, setting forth the basis for the determination, all requirements shall be 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.

Subject to a local governmental body's authority to reject, in whole or in part, any and all proposals, as provided in this section, a local governmental body shall unconditionally accept a proposal without alteration or correction, except as provided in this paragraph. An offeror may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for opening the proposals. After proposal opening, an offeror may not change any provisions of the proposal in a manner prejudicial to the interests of the local governmental body or fair competition. The local governmental body shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended meaning of the proposal are clearly evident on the face of the proposal document, the local governmental body shall correct the mistake to reflect the intended meaning and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly evident on the face of the proposal but the intended meaning is not similarly evident.

The local governmental body shall evaluate each proposal and award each contract based solely on the criteria set forth in the request for proposals. Such criteria shall include, but not be limited to, all standards by which the local governmental body shall evaluate responsiveness, responsibility, qualifications of the offeror, technical merit and cost to the



local governmental body. The request for proposals shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to the local governmental body, taking into consideration comprehensiveness of services, energy or water cost savings, costs to be paid by the local governmental body, and revenues to be paid to the local governmental body. If the local governmental body awards the contract to an offeror who did not submit the proposal offering the lowest overall cost, the governmental body shall explain the reason for the award in writing.

The evaluations shall specify revisions, if needed, to each proposal which should be obtained by negotiation before the contract shall be awarded to the offeror of the proposal. The local governmental body may condition an award on successful negotiation of the revisions specified in the evaluation and shall explain in writing the reasons for omitting any such revision from a plan incorporated by reference in the contract.

(c) The state agency, building authority or local governmental body may cancel a request for proposals or may reject in whole or in part any and all proposals when the state agency, building authority or local governmental body determines that cancellation or rejection serves the best interests of the state agency, building authority or local governmental body. The state agency, building authority or local governmental body shall state in writing the reason for a cancellation or rejection. The state agency, building authority or local governmental body shall promptly publish in the central register notice of the offeror awarded the contract. The state agency, building authority or local governmental body shall, within 30 days, file a copy of the contract with the commissioner.

The commissioner, in consultation with the commissioner of capital asset management and maintenance, shall adopt regulations for the procurement of energy management services under this section for local government bodies. The commissioner of capital asset management and maintenance shall adopt regulations for services to be procured for state agencies and building authorities, and shall adopt regulations, in consultation with the director of housing and community development, for the operations of housing authorities. Such regulations may limit the scope of services procured and the duration of contracts, and shall include any requirements that the commissioner or the commissioner of capital asset management and maintenance deems necessary to promote prudent management of such contracts at the appropriate facilities. Such regulations shall require the submission, at least annually, of such information as the commissioner or the commissioner of capital asset management and maintenance may deem necessary to monitor the costs and benefits of contracts for energy management services.

(d) The commissioner shall enforce the requirements of this section and regulations adopted hereunder as they relate to local governmental bodies and shall have all the necessary powers to require compliance. The commissioner of capital asset management and maintenance shall enforce all such regulations as they relate to state agencies and building authorities, except quasi-public agencies. An order of the commissioner 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 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 an order of the commissioner is invalid. An aggrieved person shall not be required to seek an order from the commissioner as a condition precedent to seeking any other remedy.

**SECTION 24.** Section 11D of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 25, 39, 44 and 45, 52, 56, 60 and 62, the word “division” and inserting in place thereof, in each instance, the following word:- department.

**SECTION 25.** Said section 11D of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 30, 39 and 47, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

**SECTION 26.** Said section 11D of said chapter 25A, as so appearing, is hereby further amended by inserting after the word “department”, in lines 34 and 51, the following words:- of public utilities.

**SECTION 27.** Said section 11D of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 56, the words “government regulations”, and inserting in place thereof the following words:- telecommunications, utilities and energy.

**SECTION 28.** Section 11E of said chapter 25A, as so appearing, is hereby amended by striking out, in line 1, the words “division of energy resources” and inserting in place thereof the following word:- department.

**SECTION 29.** Said section 11E of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 3 and 4, and in lines 7, 9, 13, 16, 20, 23 and 45, the word “division” and inserting in place thereof, in each instance, the following word:- department.

**SECTION 30.** Said section 11E of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 7, 10 and 43, the words “telecommunications and energy” and inserting in place thereof, in each instance, the following words:- public utilities.

**SECTION 31.** Said section 11E of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 46, the words “committees on government regulations and energy, respectively,” and inserting in place thereof the following words:- committee on telecommunications, utilities and energy.

**SECTION 32.** Said chapter 25A is hereby further amended by striking out section 11F, as so appearing, and inserting in place thereof the following 2 sections:-

Section 11F. (a) The department shall establish a renewable energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. By December 31, 1999, the department shall determine the actual percentage of kilowatt-hours sales to end-use customers in the commonwealth which is derived from existing renewable energy generating sources. Every retail supplier shall provide a minimum

percentage of kilowatt-hours sales to end-use customers in the commonwealth from new renewable energy generating sources, according to the following schedule: (1) an additional 1 per cent of sales by December 31, 2003, or 1 calendar year from the final day of the first month in which the average cost of any renewable technology is found to be within 10 per cent of the overall average spot-market price per kilowatt-hour for electricity in the commonwealth, whichever is sooner; (2) an additional one-half of 1 per cent of sales each year thereafter until December 31, 2009; and (3) an additional 1 per cent of sales every year thereafter. For the purpose of this subsection, a new renewable energy generating source is one that begins commercial operation after December 31, 1997, or that represents an increase in generating capacity after December 31, 1997, at an existing facility. Commencing on January 1, 2009, such minimum percentage requirement shall be known as the "Class I" renewable energy generating source requirement.

(b) For the purposes of this subsection, a renewable energy generating source is one which generates electricity using any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3) ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (7) naturally flowing water and hydroelectric; (8) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; or (9) geothermal energy; provided, however, that the calculation of a percentage of kilowatt-hours sales to end-use customers in the commonwealth from new renewable generating sources shall exclude clauses (6) and (7). The department may also consider any previously operational biomass facility retrofitted with advanced conversion technologies as a renewable energy generating source. A renewable energy generating source may be located behind the customer meter within the ISO -NE, as defined in section 1 of chapter 164, control area if the output is verified by an independent verification system participating in the New England Power Pool Generation Information System, in this section called NEPOOL GIS, accounting system and approved by the department.

(c) New renewable energy generating sources meeting the requirements of this subsection shall be known as Class I renewable energy generating sources. For the purposes of this subsection, a Class I renewable energy generating source is one that began commercial operation after December 31, 1997, or represents the net increase from incremental new generating capacity after December 31, 1997 at an existing facility, where the facility generates electricity using any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3) ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) energy generated by new hydroelectric facilities, or incremental new energy from increased capacity or efficiency improvements at existing hydroelectric facilities; provided, however, that (i) each such new facility or increased capacity or efficiency at each such existing facility must meet appropriate and site-



specific standards that address adequate and healthy river flows, water quality standards, fish passage and protection measures and mitigation and enhancement opportunities in the impacted watershed as determined by the department in consultation with relevant state and federal agencies having oversight and jurisdiction over hydropower facilities; (ii) only energy from new facilities having a capacity up to 25 megawatts or attributable to improvements that incrementally increase capacity or efficiency by up to 25 megawatts at an existing hydroelectric facility shall qualify; and (iii) no such facility shall involve pumped storage of water or construction of any new dam or water diversion structure constructed later than January 1, 1998; (7) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; (8) marine or hydrokinetic energy as defined in section 3; or (9) geothermal energy. A Class I renewable generating source may be located behind the customer meter within the ISO -NE control area if the output is verified by an independent verification system participating in the NEPOOL GIS accounting system and approved by the department.

(d) Every retail electric supplier providing service under contracts executed or extended on or after January 1, 2009, shall provide a minimum percentage of kilowatt-hour sales to end-use customers in the commonwealth from Class II renewable energy generating sources. For the purposes of this section, a Class II renewable energy generating source is one that began commercial operation before December 31, 1997 and generates electricity using any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3) ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) energy generated by existing hydroelectric facilities, provided that such existing facility shall meet appropriate and site-specific standards that address adequate and healthy river flows, water quality standards, fish passage and protection measures and mitigation and enhancement opportunities in the impacted watershed as determined by the department in consultation with relevant state and federal agencies having oversight and jurisdiction over hydropower facilities; and provided further, that only energy from existing facilities up to 5 megawatts shall be considered renewable energy and no such facility shall involve pumped storage of water nor construction of any new dam or water diversion structure constructed later than January 1, 1998; (7) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (8) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; (9) marine or hydrokinetic energy as defined in section 3; or (10) geothermal energy. A facility in clause (7) shall not be a Class II renewable generating source unless it operates or contracts for one or more recycling programs approved by the department of environmental protection. At least 50 per cent of any revenue received by the facility through the sale of Massachusetts RPS-eligible

renewable energy certificates shall be allocated to such recycling programs. A Class II renewable generating source may be located behind the customer meter within the ISO -NE control area provided that the output is verified by an independent verification system participating in the NEPOOL GIS accounting system and approved by the department.

(e) Every retail supplier shall annually provide to end-use customers in the commonwealth generation attributes from Class II energy facilities in an amount approved by the department; provided, however, that the department shall specify that a certain percentage of these requirements shall be met through energy generated from a specific technology or fuel type in subsection (d). Such minimum percentage requirement for kilowatt-hour sales from Class II energy generating sources may be adjusted by the department as necessary to promote the continued operation of existing energy generating resources that meet the requirements of said subsection (d), and may be met through kilowatt-hour sales to end-use customers from any energy generating source meeting the requirements of said subsection (d).

(f) After conducting administrative proceedings, the department may add technologies or technology categories to any list; provided, however, that the following technologies shall not be considered renewable energy supplies: coal, oil, natural gas and nuclear power. The department shall establish and maintain regulations allowing for a retail supplier to discharge its obligations under this section by making an alternative compliance payment in an amount established by the department for Class I and Class II renewable energy generating sources. The department shall establish and maintain regulations outlining procedures by which each retail supplier shall annually submit for the department's review a filing illustrating the retail supplier's compliance with the requirements of this section.

(g) In satisfying its annual obligations under subsection (a), each retail supplier shall provide a portion of the required minimum percentage of kilowatt-hours sales from new on-site renewable energy generating sources located in the commonwealth and having a power production capacity of not more than 2 megawatts which began commercial operation after December 31, 2007, including, but not limited to, behind the meter generation and other similar categories of generation determined by the department. The portion of the required minimum percentage required to be supplied by such on-site renewable energy generating sources shall be established by the department; provided, however, that the department may specify that a certain percentage of these requirements shall be met through energy generated from a specific technology or fuel type.

(h) The department shall adopt regulations allowing for a retail supplier to discharge its obligations under subsection (g) by making an alternative compliance payment in an amount established by the department; provided, however, that the department shall set on-site generation alternative compliance payment rates at levels that shall stimulate the development of new on-site renewable energy generating sources.

(i) A municipal lighting plant shall be exempt from the obligations under this section so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply under section 47A of chapter 164.



Section 11F½. (a) The department shall establish an alternative energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. Every retail electric supplier providing service under contracts executed or extended on or after January 1, 2009 shall provide a minimum percentage of kilowatt-hour sales, as determined by the department, to end-use customers in the commonwealth from alternative energy generating sources and the department shall annually thereafter determine the minimum percentage of kilowatt-hour sales to end-use customers in the commonwealth which shall be derived from alternative energy generating sources. For the purposes of this section, an alternative energy generating source is one which generates electricity using any of the following: (1) gasification with capture and permanent sequestration of carbon dioxide; provided, however, that the fuel shall be purchased by, and contractually transported to, the alternative energy generating source in ISO-NE, as defined in section 1 of chapter 164; (2) combined heat and power; (3) flywheel energy storage; (4) any facility which substitutes any portion of its fossil fuel source with an equal to or greater portion of an alternative, paper-derived fuel source approved by the department of environmental protection through a beneficial use determination for the production of heat or power; (5) energy efficient steam technology; or (6) any other alternative energy technology approved by the department under an administrative proceeding conducted under chapter 30A; provided, however, that the following technologies shall not be considered alternative energy supplies: coal, except when used in gasification; petroleum coke, except when used in gasification; oil; natural gas, except when used in gasification or combined heat and power; and nuclear power.

(b) The department, in consultation with the department of environmental protection, shall set: (1) emission performance standards, including standards for carbon dioxide emissions, permanent sequestration definitions and standards, and fuel conversion efficiency standards for all technologies included in this section such that in the case of gasification, the total overall fuel conversion efficiency from feedstock to final combustible fuel shall not be less than 70 per cent, consistent with the commonwealth's environmental goals, including, but not limited to, the reduction of greenhouse gas emissions; and (2) a net carbon dioxide emissions rate not to exceed the average emissions rate of existing natural gas plants in the commonwealth, which shall include all emissions related to combustion, gasification, fuel processing and sequestration, whether or not such activities occur at the alternative generating source or at another location, and in the case of combined heat and power shall also include thermal delivery. At least once every 2 years the department shall review and update all standards for new alternative energy generating sources to strengthen them, as appropriate, as technology improvements occur.

(c) The department shall adopt regulations allowing for a retail supplier to discharge its obligations under this section by making an alternative compliance payment in an amount established by the department. Such regulations shall outline procedures by which each retail supplier shall annually submit for the department's review a filing illustrating the retail supplier's compliance with the requirements of this section.



(d) A municipal lighting plant shall be exempt from the obligations under this section so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply under section 47A of chapter 164.

**SECTION 33.** Section 11G of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 1, 3 and 11, the word “division” and inserting in place thereof, in each instance, the following word:- department.

**SECTION 34.** Said section 11G of said chapter 25A, as so appearing, is hereby further amended by inserting after the word “department”, in lines 13 and 14, the following words:- of public utilities.

**SECTION 35.** Said section 11G of said chapter 25A, as so appearing, is hereby further amended by striking out the last 2 sentences and inserting in place thereof the following sentence:- The department shall adopt rules and regulations necessary to implement this section.

**SECTION 36.** Section 11H of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 1, 6, 12 and 31, the word “division” and inserting in place thereof, in each instance, the following word:- department.

**SECTION 37.** Said chapter 25A is hereby amended by striking out section 11I and inserting in place thereof the following section:-

Section 11I. (a) A state agency, local governmental body or building authority may use this section in the procurement of energy management services as an alternative to the procedures in section 11C. Nothing in this section shall preclude any such agency, body or authority from proceeding under section 11C.

(b) An agency, local governmental body or building authority may enter into an energy management services contract in order to achieve energy savings at facilities in accordance with this section. All energy savings measures under the contract shall comply with current local, state and federal construction and environmental codes and regulations.

(c) Before entering into an energy management services contract, a state agency, local governmental body or building authority 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 an energy management services contract, an agency, body or authority body shall notify the commissioner in writing, in a form and including information as the commissioner of capital asset management and maintenance shall prescribe by regulation, of the entity’s intent to solicit qualifications. The notification, at a minimum, shall include a copy of the request for qualifications. An acknowledgment of receipt, in a form and including information as the commissioner of capital asset management and maintenance shall prescribe by regulation, shall be issued by the commissioner to the agency, body or authority upon compliance with the requirements of this subsection.

The request for qualifications published by a state agency, local governmental body or building authority shall include the following: (1) the name and address of the agency, body or authority; (2) The name, address, title and phone number of a contact person; (3) the

date, time and place where qualifications shall 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 agency, body or authority may cancel the request for qualifications, or may reject in whole or in part any and all energy savings measures, when it determines that cancellation or rejection serves the best interests of the public; and (7) any other stipulations and clarifications the agency, body or authority may require, which shall be clearly identified in the request for qualifications.

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 under 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 capital asset management and maintenance, and (2) by an update statement.

The state agency, local governmental body or building authority 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 agency, body, or authority 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 state agency, local governmental body or building authority shall conduct discussions with, and may require public presentations by, each person who submitted qualifications in response to the request for qualifications regarding his qualifications, approach to the project and ability to furnish the required services. The agency, body or authority shall select in order of preference 3 such persons, unless fewer persons respond, it considers to be the most highly qualified to perform the required services. The agency, body

or authority may request, accept and consider proposals for the compensation to be paid under the contract only during competitive negotiations conducted under subsection (e).

(d) The state agency, local governmental body or building authority may cancel a request for qualifications, or may reject in whole or in part any and all proposals when it determines that cancellation or rejection serves its best interests. The agency, body or authority shall state in writing the reason for a cancellation or rejection.

(e) The state agency, local governmental body or building authority shall negotiate a contract with the most qualified person at compensation which it determines is fair, competitive and reasonable. If the agency, body or authority is unable to negotiate a satisfactory contract with the person considered to be the most qualified at a price the agency, body or authority determines to be fair, competitive and reasonable, negotiations with that person shall be formally terminated. The agency, body or authority shall then undertake negotiations with the second most qualified person. Failing accord with the second most qualified person, the agency, body or authority shall terminate those negotiations and then undertake negotiations with the third most qualified person. Should the agency, body or authority be unable to negotiate a satisfactory contract with any of the selected persons, it 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 agency, body or authority cancels the request for qualifications.

(f) The decision of the state agency, local governmental body or building authority regarding the selection of a qualified provider shall be final and not subject to appeal except on the grounds of fraud or collusion.

(g) The state agency, local governmental body or building authority shall provide public notice of the meeting at which it proposes to award the energy management services 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 agency, body or authority shall promptly publish in the central register notice of the award and shall notify the commissioner of the award and provide to him a copy of the energy management services contract.

(h) The energy management services contract shall include a written guarantee of the qualified provider that either the amount of energy savings guaranteed shall be achieved or the qualified provider shall reimburse the state agency, local governmental body or building authority for the shortfall amount. Methods for measurement and verification of energy savings shall conform to the most recent standards established by the Federal Energy Management Program of the United States Department of Energy.

(i) The commissioner, in consultation with the commissioner of capital asset management and maintenance, shall adopt regulations for the procurement of energy management services under this section for local government bodies. The commissioner shall enforce the requirements of this section and regulations adopted as they relate to local



governmental bodies and shall have all the necessary powers to require compliance. The commissioner of capital asset management and maintenance shall adopt regulations for services to be procured for state agencies and building authorities. The commissioner of capital asset management and maintenance shall enforce the regulations as they relate to state agencies and building authorities. An order of the commissioner under this subsection shall be effective and may be enforced according to its terms, and enforcement shall not be suspended or stayed by the entry of an appeal. The superior court for Suffolk county shall have jurisdiction over appeals of orders of the commissioner 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 an 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.

(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 state agency, local governmental body or building authority so determines in writing, setting forth the basis for the determination, all requirements shall be 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 energy management services contract, the state agency, local governmental body or building authority shall require the qualified provider to file with the agency, body or authority 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) An energy management services contract may extend beyond the fiscal year in which it became effective.

**SECTION 38.** Section 12 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 15, the word "energy" and inserting in place thereof the following words:- telecommunications, utilities and energy.

**SECTION 39.** Said section 12 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 21, the words "said chairmen" and inserting in place thereof the following word:- committee.

**SECTION 40.** Section 13 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 2 and in lines 16 and 17, the word "division" and inserting in place thereof, in each instance, the following word:- department.

**SECTION 41.** Said section 13 of said chapter 25A, as so appearing, is hereby fur-

ther amended by striking out, in line 16, the words “division of energy resources” and inserting in place thereof the following word:- department.

**SECTION 42.** Said section 13 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 10, the word “Division”, and inserting in place thereof the following word:- Department.

**SECTION 43.** Said section 13 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 15, the words “subject to” and inserting in place thereof the following words:- without further.

**SECTION 44.** Said chapter 25A is hereby further amended by adding the following 2 sections:-

Section 14. (a) A state agency, building authority or local governmental body may contract for energy conservation projects that have a total project cost of \$100,000 or less, directly and without further solicitation, with electric and gas utilities, their subcontractors and other providers of such energy conservation projects authorized under sections 19 and 21 of chapter 25 and section 11G.

(b) For purposes of this section, “total project cost” shall mean all construction costs of an energy conservation project, whether borne by the utility, agency, authority or body including, without limitation, the costs associated with equipment purchase and installation of such equipment. Ancillary services provided at no cost by utilities, such as auditing and design, shall not be considered part of project cost.

(c) A state agency, building authority or local governmental body may pay for such energy conservation projects through additions to their monthly utility bills.

(d) Sections 44A to 44M, inclusive, of chapter 149 and section 39M of chapter 30 shall not apply to contracts entered into under this section.

Section 15. (a) For solar photovoltaic projects with a total project cost that is less than \$100,000, a state agency, building authority or local governmental body may acquire photovoltaic panels and associated equipment for onsite use of the energy generated by these panels from contracts procured by the operational services division under section 22 of chapter 7 and sections 51 and 52 of chapter 30.

(b) For purposes of this section, “total project cost” shall mean all construction costs of a photovoltaic project, whether borne by the utility, agency, authority or body or other sources, including, without limitation, the costs associated with equipment purchase and installation of such equipment. Ancillary services provided at no cost, such as auditing and design, shall not be considered part of project cost.

(c) Sections 44A to 44M, inclusive, of chapter 149 and section 39M of chapter 30 shall not apply to contracts entered into under this section.

**SECTION 45.** Section 2 of chapter 25B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 11, the words “of the division”

**SECTION 46.** Section 1 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in line 96, the words “telecommunications and energy” and

inserting in place thereof the following words:- public utilities.

**SECTION 47.** Said section 1 of said chapter 30B of the General Laws, as so appearing, is hereby further amended by striking out, in line 97, the word “division” and inserting in place thereof the following word:- department.

**SECTION 48.** Section 3 of chapter 40J of the General Laws, as so appearing, is hereby amended by inserting after the word “designee”, in line 14, the following words:-, the secretary of energy and environmental affairs or a designee,.

**SECTION 49.** Said chapter 40J is hereby amended by striking out section 4E, as so appearing, and inserting in place thereof the following section:-

Section 4E. (a)(1) There is hereby established and set up on the books of the corporation a separate trust fund to be known as the Massachusetts Renewable Energy Trust Fund, hereinafter referred to as the fund. The corporation shall hold the fund in an account or accounts separate from other funds. There shall be credited to the fund all amounts collected under section 20 of chapter 25 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the fund as set forth in subsection (b) of this section, including the ordinary and necessary expenses of administration and operation associated with the fund. Unless otherwise specified, all monies of the corporation, from whatever source derived, shall be paid to the treasurer of the corporation. Said monies shall be deposited in the first instance by the treasurer in national banks, trust companies or banking companies in compliance with section 34 of chapter 29. Funds in such accounts shall be paid out on the warrant or other order of the treasurer of the corporation or other person as the board may authorize to execute warrants.

(a)(2) A governing board of not less than 9 individuals with an interest in matters relating to the general purpose of the fund shall assist the corporation in matters related to the fund and in the implementation of this section. The governing board shall include: the commissioner of energy resources, who shall serve as chair; the secretary of energy and environmental affairs or a designee, the secretary of housing and economic development or a designee; the secretary of administration and finance or a designee; 1 member of the board to be appointed by the chair of the board; and 4 members to be appointed by the governor, who shall have knowledge and experience in the following areas: electricity distribution, generation, supply or power marketing; the concerns of commercial and industrial ratepayers; the concerns of residential ratepayers, including low-income ratepayers; economics, financial or investment consulting relative to the fund; regional environmental concerns; academic issues related to power generation, distribution or the development or commercialization of renewable energy sources; institutions of higher education; municipal or regional aggregation matters; and renewable and alternative energy and energy efficiency issues. The members of the governing board shall be deemed to be directors for the purposes of the fourth paragraph of section 3. Each appointed member of the governing board shall serve for a term of 3 years and thereafter until such member’s successor is appointed, and shall be eligible for



reappointment. A person appointed to fill a vacancy on the governing board shall be appointed in a like manner as the vacating member shall have been appointed and shall be eligible for reappointment. A member of the governing board appointed by the governor may be removed by the governor for cause. The members of the governing board shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The governing board may meet as often as the members shall decide; provided, however, that it shall meet at least quarterly. The governing board may, by majority vote, delegate any amount of its authority to an executive committee comprised of members of the governing board, the board or the staff of the corporation. Any such delegation of authority may be revoked at any time by majority vote of the governing board.

The governing board shall adopt and submit to the board for approval detailed 5-year strategic plans and annual operational plans for the application of the fund in support of the design, implementation, evaluation and assessment of renewable energy programs for the commonwealth that ensure that the fund shall be employed to provide financial and non-financial resources to overcome barriers facing renewable energy enterprises, institutions and projects in a prudent manner consistent with the public purposes and interests set forth in this section. The strategic plan shall include consideration of, and be consistent with, plans, regulations and policies issued by the executive office of energy and environmental affairs and, to the extent practicable, shall consist of at least 4 components: (i) product and market development to establish a foundation for growth and expansion of the commonwealth's renewable energy enterprises, institutions and projects, including pilot and demonstration projects, production incentives, and other activities designed to increase the use and affordability of renewable energy in the commonwealth; (ii) training and public information to allow for the development and dissemination of complete, objective and timely information, analysis and policy recommendations related to the advancement of the public purposes and interests of the renewable energy fund; (iii) investment to support the growth and expansion of renewable energy enterprises, institutions and projects; and (iv) research and development within the commonwealth and the New England region related to renewable energy matters. The strategic plans and annual operational plans shall also allocate a portion of the fund to the green communities program to provide technical assistance to municipalities certified as green communities under section 10 of chapter 25A. The strategic plans and annual operational plans shall provide detailed budget and staffing levels and specify the expenditure of such monies from the fund to each of these component activities; provided, however, that monies so expended shall be used to develop such renewable energy projects with priority given to projects, institutions, and enterprises, first, within the commonwealth; next, to such activities within New York and the New England region which serve the regional power grid; and finally, all other such activities regardless of location. In developing the strategic plans and yearly operational plans, the governing board shall consult with and utilize the services of the department of public utilities and the department of energy resources for such technical assistance as the governing board deems

necessary or appropriate to the effective discharge of the governing board's responsibilities and duties relative to the fund.

The 5-year strategic plans and annual operational plans shall be deemed approved unless they are rejected by a majority vote of the board within 60 days of the plan's referral to the board. If the board rejects any submitted plan, the board shall, within 10 days of such action, provide the governing board with a written explanation of the denial, including any proposed recommendations to the submitted plan. Upon approval by the board of any plan, the board shall delegate authority to the governing board to implement the plan. The delegated authority shall include, but not be limited to, the approval and implementation of budget and staffing projections set forth in the plan, the hiring of an executive director to administer the fund at the direction of the governing board, and the hiring of outside consultants or other professionals to assist in the implementation of the plan. The governing board shall present any subsequent strategic plans and annual operational plans, or substantial modifications of any approved plan, to the board for approval. The board shall not be liable for any claims arising out of or related to the implementation of any approved plan, or any other decisions of the governing board relating to administration of the fund.

(b) The board shall draw upon monies in the fund for the public purpose of generating the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth through a series of initiatives which exploit the advantages of renewable energy in a more competitive energy marketplace by promoting the increased availability, use and affordability of renewable energy, by making operational improvements to existing renewable energy projects and facilities which, in the determination of the governing board, would yield more significant results in the development of renewable energy if said funds were made available for the creation of new renewable energy facilities, and by fostering the formation, growth, expansion and retention within the commonwealth of preminent clusters of renewable energy and related enterprises, institutions and projects, which serve the citizens of the commonwealth consistent with a strategic plan or annual operational plan.

(c) Public interests to be advanced through the governing board's actions shall include, but not be limited to, the following: (i) the development and increased use and affordability of renewable energy resources in the commonwealth and the New England region; (ii) the protection of the environment and the health of the citizens of the commonwealth through the prevention, mitigation and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) the maximization of benefits to consumers of the commonwealth resulting from increased fuel and supply diversity; (iv) the creation of additional employment opportunities in the commonwealth through the development of renewable technologies; (v) the stimulation of increased public and private sector investment in, and competitive advantage for, renewable energy and related enterprises, institutions and projects in the commonwealth and the New England region; and (vi) the stimulation of entrepreneurial activities in these and related enterprises, institutions and projects.



(d) In furtherance of any strategic and operational plans, and other public purposes and interests, the board may expend monies from the fund to make grants, contracts, loans, equity investments, energy production credits, bill credits, or rebates to customers; to provide financial or debt service obligation assistance; or to take any other actions, in such forms, under such terms and conditions and under such selection procedures as the board deems appropriate and otherwise in a manner consistent with good business practices; provided, however, that the board shall generally employ a preference for competitive procurements; provided further, that the board shall endeavor to leverage the full range of the resources, expertise and participation of other state and federal agencies and instrumentalities in the design and implementation of programs under this section; and provided further, that the board has determined and incorporated into the minutes of its proceedings a finding that such actions are calculated to advance the public purpose and public interests set forth in this section, including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels, including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of improvements to existing renewable energy projects and facilities as defined herein which were in operation as of December 31, 1997 ; and (viii) matters related to the conservation of scarce energy resources.

(e) Subject to the approval of the board, and not inconsistent with any strategic or annual operational plans, investment activity of monies from the fund may consist of the following: (i) an equity fund, to provide risk capital to renewable energy enterprises, institutions and projects; (ii) a debt fund, to provide loans to energy enterprises, institutions, projects, intermediaries and end-users; and (iii) a market growth assistance fund, to be used to attract private capital to the equity and debt funds. To implement these investment activities, the corporation may retain, through a bid process, public or private sector investment fund managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described in this section and to seek other fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital shall be appropriately segregated. The managers, subject to the approval of the board, may retain necessary services and consultants to carry out the purposes of the fund. The managers shall develop a business plan to guide investment decisions, which shall be approved by the board before any expenditures from the trust fund and which shall be consistent with the provisions of the plan for the fund as adopted by the board.



(f) For the purposes of expenditures from the fund, renewable energy technologies eligible for assistance shall mean technologies eligible as Class I or Class II renewable energy generating sources under section 11F of chapter 25A, micro-combined heat and power units less than 60 kilowatts, solar hot water, geothermal heating and cooling projects, biomass thermal and storage and conversion technologies connected to qualifying generation projects; provided, however, that the board may make grants from the fund, not to exceed a total of \$4 million annually, in support of Massachusetts-based public and private enterprises developing new technologies to significantly increase the efficiency of the internal combustion engine. The board shall make grants, loans or other support from the fund, not to exceed \$3 million annually for hydroelectric facilities, other than pumped storage facilities in the commonwealth, constructed before December 31, 1997 for upgrades to increase efficiency or capacity and to reduce environmental impacts. Such funds may also be used for appropriate joint energy efficiency and renewable projects, as well as for investment by distribution companies in renewable energy and distributed generation opportunities, if consistent with this section. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells or micro-combined heat and power, and nuclear power.

(g) The use by the corporation and governing board of monies to implement this section shall be deemed to be an essential governmental function. Notwithstanding any general or special law to the contrary, clause (a) of section 4A shall apply to expenditures made from the fund; provided, however, that no such expenditure shall be deemed to involve a capital facility project; provided further, that no lease or license executed in furtherance of the public purpose and interests of the fund shall exceed 30 years in duration, and the duration and terms shall be developed in a manner consistent with good business practices; and provided further, that the corporation or governing board shall take no action which contravenes the commonwealth's reversionary interest in any of its real property. The corporation, any purchasing cooperative established thereby and all members of any such purchasing cooperative may participate in any energy-related purchasing, aggregating or similar program established and operated by the Health and Educational Facilities Authority and such participation shall be deemed to be in furtherance of an essential governmental function.

(h) Clause (k) of section 4 shall not apply to disbursements from the trust fund.

(j) The books and records of the corporation and governing board relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(k) Not later than August 15th of each year, the board, in conjunction with the governing board, shall annually submit to the governor, the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means a report detailing the expenditure and investment of monies from the fund over the previous fiscal year, the ability of the fund to meet the requirements in this section, and any recommendations for improving the ability of the governing board, the board, the corporation

and the fund to meet such requirements.

(1) Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, the board shall, upon the written request of the governor, transfer moneys in the fund, in an amount not exceeding \$17 million in the aggregate, to the commonwealth for deposit in the General Fund. As a condition subsequent to any such transfer, the commonwealth, acting by and through the department of energy resources or a successor agency, shall enter into an agreement with the corporation under which the commonwealth, at the direction of the corporation, shall enter into contracts, for terms not to exceed 20 years, with owners of facilities that generate electricity using renewable energy technologies, wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The corporation shall determine the particular types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the corporation and the commonwealth, of such amount as shall be transferred under the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. The maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5 million. The commonwealth shall be indemnified under such contracts by the owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 20 of chapter 25 shall be impressed with a trust for the benefit of the fund. To facilitate the purchase by the corporation of electricity produced by renewable energy technologies or of certificates produced under the renewable energy portfolio standard regulations of the department of energy resources representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth shall covenant with the sellers of such electricity or certificates that the amounts collected under said section 20 shall not be diverted from the fund and that the rates of the mandatory charges under said section 20 shall not be reduced during the term, which shall not exceed 20 years, of any contract entered into by the corporation for the purchase of such electricity or certificates below a level which shall enable the corporation to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under said section 20 shall be expended by the corporation as provided in subsection (a) and, in the discretion of the corporation, in furtherance of the public purposes of the corporation and for

such costs of departments and agencies that support or are otherwise consistent with the purposes of the fund.

**SECTION 50.** Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by striking out clause (3B) and inserting in place thereof the following clause:-

(3B) For energy conservation, alternative energy or renewable energy improvements to public buildings or facilities owned or leased by the city or town, or on property owned or leased by the city or town, 20 years.

**SECTION 51.** Section 1 of chapter 90 of the General Laws, as amended by section 1 of chapter 79 of the acts of 2008, is hereby further amended by inserting before the definition of "Ambulance" the following 2 definitions:-

"Alternative fuel", an energy source used to power a vehicle that does not meet the definition of fuel in section 1 of chapter 64A and is not diesel motor fuel.

"Alternative fuel vehicle", a vehicle powered by alternative fuel with the following attributes:

- (a) the capability of operating only on alternative fuel;
- (b) its original use was commenced with the taxpayer;
- (c) acquired by the taxpayer for use or lease, but not for resale;
- (d) is designed to use and uses alternative fuel for a significant portion of the total fuel used for propulsion energy for the vehicle; and

(e) when operating on petroleum fuel, the vehicle model's miles per gallon rating from the United States Environmental Protection Agency exceeds the agency's corporate average fuel economy requirement for the class of vehicles, whether cars or light trucks, in which the vehicle model is classified. The model specification shall include characteristics that affect fuel economy and for which the United States Environmental Protection Agency issues distinct miles per gallon ratings, such as transmission type and engine size.

**SECTION 52.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "House trailer" the following definition:-

"Hybrid vehicle", a vehicle (a) which draws propulsion energy from onboard sources of stored energy which are both: (1) an internal combustion or heat engine using combustible fuel; and (2) a rechargeable energy storage system; or (b) which, in the case of a passenger vehicle, medium duty passenger vehicle or light truck: (1) for model year 2002 and later model year vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard adopted under section 243(e)(2) of said Clean Air Act for that make and model year; (2) for model year 2004 and later model vehicles, has received a certificate that the vehicle meets or exceeds the Tier II Bin 5 emission level established in regulations prescribed by the Administrator of the United States Environmental Protection Agency under section 202(i) of said Clean Air Act for that make and model year vehicle; and (3) achieves an increase of 10 per cent fuel efficiency as compared to the average vehicle of its class as defined by the United States Environmental Protection Agency.



**SECTION 53.** Subclause (3) of clause (b) of the definition of “hybrid vehicle” in said section 1 of said chapter 90, as appearing in section 52, is hereby amended by striking out the figure “10” and inserting in place thereof the following figure:- 25.

**SECTION 54.** Section 3 of chapter 143 of the General Laws, as so appearing, is hereby amended by inserting after the word “structure”, in line 55, the following words:-, and the energy requirements imposed by clause (p) of section 94.

**SECTION 55.** Said section 94 of said chapter 143, as amended by section 1 of chapter 78 of the acts of 2008, is hereby further amended by adding the following 4 clauses:-

(o) To adopt and fully integrate the latest International Energy Conservation Code as part of the state building code, together with any more stringent energy-efficiency provisions that the board, in consultation with the department of energy resources, concludes are warranted. The energy provisions of the state building code shall be updated within 1 year of any revision to the International Energy Conservation Code.

(p) In consultation with the department of energy resources, to develop requirements and promulgate regulations as part of the state building code for the training and certification of city and town inspectors of buildings, building commissioners and local inspectors regarding the energy provisions of the state building code, and to require that all new construction and any major reconstruction, alteration or repair of residential and non-residential buildings pass inspection by inspectors who have been trained and certified, demonstrating full compliance with the energy provisions of the state building code.

(q) In consultation with the department of energy resources, to develop requirements and promulgate regulations as part of the state building code, in addition to the requirements of the latest International Energy Conservation Code, requiring a process to ensure that all new non-residential buildings larger than 10,000 square feet and any major reconstruction, alteration or repair of all such buildings perform as designed with respect to energy consumption by undergoing building commissioning or acceptance testing. Such commissioning must be completed before the issuance of a certificate of occupancy.

(r) In consultation with the department of energy resources, professional organizations and other stakeholders, to prepare a report evaluating the advisability of a requirement of periodic commissioning for large non-residential buildings and, if such a requirement is deemed advisable, evaluating possible approaches to periodic commissioning.

**SECTION 56.** Chapter 159 of the General Laws is hereby amended by striking out section 10, as amended by section 30 of chapter 19 of the acts of 2007, and inserting in place thereof the following section:-

Section 10. The department of telecommunications and cable shall enforce this chapter to the extent that it relates to telecommunications. The department of public utilities shall enforce all other provisions.

**SECTION 57.** Chapter 164 of the General Laws is hereby amended by striking out section 1, as amended by section 36 of said chapter 19, and inserting in place thereof the following section:-

Section 1. In this chapter, unless the context otherwise requires, the following words shall have the following meanings:

“Aggregator”, an entity which groups together electricity customers for retail sale purposes, except for public entities, quasi-public entities or authorities, or subsidiary organizations thereof, established under the laws of the commonwealth.

“Alternative energy development”, shall include, but shall not be limited to, solar energy, wind, wood, alcohol, hydroelectric, biomass energy systems, renewable non-depletable and recyclable energy sources.

“Alternative energy producer”, a person, firm, partnership, association, public or private corporation, or an agency, department, board, commission or authority of the commonwealth or of a subdivision of the commonwealth, that owns or operates a cogeneration facility or small power production facility as defined in this section, and does not engage in the retail sale of electricity other than sales to customers that are within the confines of an industrial park, which existed before March 1, 1982, and in which there existed as of said date electrical generating capacity of more than 15 megawatts.

“Alternative energy property”, any property powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, or any renewable, non-depletable or recyclable fuel, and property related to the exploration, development, processing, transportation and distribution of the aforementioned energy resources.

“Ancillary services”, those functions which support generation, transmission, and distribution, and which shall include the following services: (1) reactive power or voltage control; (2) loss compensation; (3) scheduling and dispatch; (4) load following; (5) system protection service; and (6) energy imbalance service.

“Articles of organization”, (i) the articles of organization of a corporation which were filed after October 1, 1973 ; (ii) an agreement of association, special act of incorporation and other charter documents, including by-law provisions and stockholder votes in effect before October 1, 1973, which, after that date, would be included in articles of organization, and all amendments thereto, effective before October 1, 1973 ; and (iii) any of the following amendments made or filed from time to time subsequent to October 1, 1973 :

- (1) a certificate of a vote establishing a series filed under section 26 of chapter 156B;
- (2) articles of amendment filed under section 8B;
- (3) restated articles of organization filed under section 8C;
- (4) certificates of confirmation of proceedings filed under section 8D;
- (5) articles of consolidation or merger filed under section 102A;
- (6) articles of dissolution filed under section 100 of chapter 156B;
- (7) a certificate as to the revival of a corporation filed under section 108 of chapter 156B.

“Basic service”, the electricity services provided to a retail customer upon either: (i) the inability of a customer to receive competitive supply from a supplier under subsection (d) of section 1B; (ii) the failure of the retail customer to elect competitive supply from a supplier under said subsection (d) of said section 1B; or (iii) upon the expiration of and the

retail customer's failure to renew a competitive supply contract under said subsection (d) of said section 1B or other means.

"Cogeneration facility", any electrical generating unit having a power production capacity which, together with any other facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating or cooling purposes, and employs a fuel other than oil as its primary energy source, except that oil may be used: (1) in combination with coal, in a mixture not exceeding 70 per cent oil; or (2) during any modifications to any existing electrical generating facility undertaken for the purpose of enabling such facility to employ, except during any periods of maintenance or repair, a fuel other than oil as its primary energy source; provided, however, that cogeneration facility shall also include any electric generating unit having a power production capacity which, together with any other facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating or cooling purposes that is within the confines of an industrial park, which existed before March 1, 1982 and, in which park there existed, as of said date, electrical generating capacity of more than 15 megawatts, and in which there existed, since said date, a cogeneration facility or a small power production facility.

"Contract termination fee", the fees owed by the distribution company to its wholesale power supplier, as determined and approved by the department of public utilities.

"Corporation", a corporation to which this chapter applies, as set forth in section 3.

"Default Service", the electricity services provided to a retail customer upon: (i) the failure of a distribution company or supplier to provide such electricity services as required by law or as contracted for under the standard service offer; (ii) the completion of the term of the standard service offer; or (iii) the inability of a customer to receive standard service transition rates during the term of the standard service offer under section 1B.

"Department", the department of public utilities.

"Distributed generation", a generation facility or renewable energy facility connected directly to distribution facilities or to retail customer facilities which alleviate or avoid transmission or distribution constraints or the installation of new transmission facilities or distribution facilities.

"Distribution", the delivery of electricity over lines which operate at a voltage level typically equal to or greater than 110 volts and less than 69,000 volts to an end-use customer within the commonwealth. The distribution of electricity shall be subject to the jurisdiction of the department of public utilities.

"Distribution company", a company engaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a distribution company shall not include any entity which owns or operates plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or



its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation before January 1, 1986.

“Distribution facility”, a plant or equipment used for the distribution of electricity and which is not a transmission facility, a cogeneration facility or a small power production facility.

“Distribution service”, the delivery of electricity to the customer by the electric distribution company from points on the transmission system or from a generating plant at distribution voltage.

“Electric company”, a corporation organized under the laws of the commonwealth for the purpose of making by means of water power, steam power or otherwise and for selling, transmitting, distributing, transmitting and selling, or distributing and selling, electricity within the commonwealth, or authorized by special act so to do, even though subsequently authorized to make or sell gas; provided, however, that electric company shall not mean an alternative energy producer; provided further, that a distribution company shall not include an entity which owns or operates a plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and nonprofit educational institutions, and where such plant or equipment was in operation before January 1, 1986 ; and provided further, that electric company shall not mean a corporation only transmitting and selling, or only transmitting, electricity unless such corporation is affiliated with an electric company organized under the laws of the commonwealth for the purpose of distributing and selling, or distributing only, electricity within the commonwealth.

“Electric service”, the provision of generation, transmission, distribution or ancillary services.

“End user”, any individual, corporation, firm or subsidiary of a firm that is an ultimate consumer of petroleum products and which, as part of its normal business practices, purchases or obtains petroleum products from a wholesaler or reseller and receives delivery of that product.

“Energy audit”, a determination of the energy consumption characteristics of a building or facility which identifies the type, size and rate of energy consumption of such building or facility and the major energy using systems of such building or facility; determines appropriate energy conservation maintenance and operating procedures; and indicates the need, if any, for the acquisition and installation of energy conservation measures or alternative energy property.

“Energy conservation”, shall include, but shall not be limited to, the modification of or change in the operation of real or personal property in a manner likely to improve the efficiency of energy use, energy conservation measures and any process to audit or identify and specify energy and cost savings.

“Energy conservation measures”, measures involving modifications of 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 or 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 weatherstripping; combined heat and power facilities; 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 efficiency”, the implementation of an action, policy or measure which entails the application of the least amount of energy required to produce a desired or given output.

“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 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 such services.

“FERC”, the federal energy regulatory commission.

“Gas company”, a corporation organized for the purpose of making and selling or distributing and selling, gas within the commonwealth, even though subsequently authorized to make or sell electricity; provided, however, that gas company shall not mean an alternative energy producer.

“Generation”, the act or process of transforming other forms of energy into electric energy or the amount of electric energy so produced.

“Generation company”, a company engaged in the business of producing, manufacturing or generating electricity or related services or products, including but not limited to, renewable energy generation attributes for retail sale to the public.

“Generation facility”, a plant or equipment used to produce, manufacture or otherwise generate electricity and which is not a transmission facility.

“Generation service”, the provision of generation and related services to a customer.

“Green building”, a building, including but not limited to, homes, offices, schools, and hospitals constructed or renovated to incorporate design techniques, technologies, and materials that lessen its dependence on fossil fuels and minimize its overall negative environmental impact.

“Horizontal market power”, a situation in which 1 or a few market participants combined have undue concentration in the ownership of facilities at the same level in the chain of production resulting in the ability to influence price to his or their own benefit.

“ISO-NE”, the independent system operator for New England.

“Mitigation”, all actions or occurrences which reduce the amount of money that a distribution company seeks to collect through the transition charge, including those amounts resulting from both matters within the company's control and from matters not wholly within the company's control; provided, however, that mitigation shall, in accordance with section 1G, include, but not be limited to, the following: (1) sales of capacity, energy, ancillary services, reserves, and emission allowances from generating facilities that are wholly or partly owned by the company; (2) sales of capacity, energy, ancillary services, reserves and emission allowances from generating facilities with which the company has a power purchase agreement; (3) adjustments to the company's minimum obligations under purchase power agreements that decrease such obligations, such as those that may be obtained through contract buy-out or renegotiation; (4) residual value; (5) sales and voluntary write downs of company generation-related assets; (6) any market value in excess of net book value associated with the sale, lease, transfer or other use of the assets of the company unrelated to the provision of transmission service or distribution service at regulated prices, including, but not limited to, rights-of-way, property and intangible assets when the costs associated with the acquisition of those assets have been reflected in the company's rates for regulated service; provided, however, that the department of public utilities shall determine the market values based on the highest prices that such assets could reasonably realize after an open and competitive sale; and (7) any allowed refinancing of stranded assets or other debt obligations as provided by law.

“Non-renewable energy supply and resource development”, shall include, but shall not be limited to, gasoline, natural gas, coal, nuclear energy, offshore and onshore petroleum and facilities related to the exploration, development, processing, transportation and distribution of such resources and programs established for the allocation of supplies of such resources and the development of supply shortage contingency plans.

“Petroleum products”, propane, gasoline, unleaded gasoline, kerosene, #2 heating oil, diesel fuel, kerosene base jet fuel, and #4, 5 and 6 residual oil for utility and non-utility uses, and all petroleum derivatives, whether in bond or not, which are commonly burned to produce heat, power, electricity or motion or which are commonly processed to produce synthetic gas for burning.

“Primary energy source”, fuels used, except during periods of maintenance or repair, for the generation of electric energy; provided, however, that primary energy source shall not include the minimum amounts of fuel required for ignition, start-up, testing, flame stabilization, and control uses, and minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies declared by the governor, directly affecting the public health, safety and welfare which would result from electric power outages.

“Renewable energy”, (i) resources whose common characteristic is that they are nondepletable or are naturally replenishable but flow-limited; or (ii) existing or emerging non-fossil fuel energy sources or technologies, which have significant potential for commer-



cialization in New England and New York, and shall include the following: solar photovoltaic or solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; geothermal; fuel cells; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; naturally flowing water and hydroelectric; and low emission advanced biomass power conversion technologies using such fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; provided, however, that renewable energy supplies shall not include coal, oil, natural gas except when used in fuel cells, and nuclear power.

“Reseller”, a person, corporation, firm or subsidiary of any firm that carries on the trade or business of purchasing petroleum products and reselling them without substantially changing their form, or any wholesaler or retail seller of electricity or natural gas.

“Residual value”, the value of electric company assets, not including the income which may be obtained through generation facility operation.

“Retail access”, the use of transmission and distribution facilities owned by a transmission company or a distribution company to transmit or distribute electricity from a generation company, supplier or aggregator to retail customers.

“Retail customer”, a customer who purchases electricity for its own consumption.

“Securitization”, the use of rate reduction bonds to refinance debt and equity associated with transition costs under section 1H.

“Service territory”, the geographic area in which a distribution company provided distribution service on July 1, 1997.

“Small power production facility”, a facility which is any electrical generating unit which produces electric energy solely by the use, as a primary energy source, of biomass, waste, wind, water, wood, geothermal, solar energy or any combination thereof, or produces gas if it is produced from coal, biomass, solid waste or wood, and has a power production capacity which, together with any other facilities located at the same site, is not greater than 30 megawatts.

“Steam distribution company”, a person, firm, partnership, association or private corporation organized or operating under the laws of the commonwealth with the primary purpose of operating a plant, equipment or facilities for the manufacture, production, transmission, furnishing or distribution of steam to or for the public for compensation within the commonwealth; provided, however, that steam distribution company shall not include: (i) an entity producing or distributing steam exclusively on private property and solely for use by the entity or the entity's tenant, and not for distribution or sale; or (ii) a company that produces and sells steam as a by-product of the production of electricity for sale in the wholesale electricity markets and does not own or operate pipelines off site of the generating facility for the distribution of steam.

“Supplier”, a supplier of generation service to retail customers, including power marketers, brokers and marketing affiliates of distribution companies, except that no electric company shall be considered a supplier.

“Supplying electricity in bulk”, engaging in the business of making and selling or distributing and selling electricity to electric companies, railroads, street railways or electric railroads, or to municipalities for municipal use or re-sale to their inhabitants, or to persons, associations or corporations under limitations imposed by special law or under section 90 or corresponding provisions of earlier laws.

“Transition charge”, the charge that provides the mechanism for recovery of an electric company’s transition costs.

“Transition costs”, the embedded costs as determined under section 1H which remain after accounting for maximum possible mitigation, subject to determination by the department of public utilities.

“Transmission”, the delivery of power over lines that operate at a voltage level typically equal to or greater than 69,000 volts from generating facilities across interconnected high voltage lines to where it enters a distribution system.

“Transmission company”, a company engaging in the transmission of electricity or owning, operating or controlling transmission facilities; provided, however, that a transmission company shall provide transmission service to all generation companies, municipal lighting plants, suppliers and load aggregators in the commonwealth, whether affiliated or not, on comparable, nondiscriminatory prices and terms, under federal law and regulation.

“Transmission facility”, plant or equipment used for the transmission of electricity, as determined by the FERC under federal law and regulation.

“Transmission service”, the delivery of electricity to a retail customer, supplier, distribution company or wholesale customer by a transmission company.

“Unbundled rates”, rates designed to separate the costs of providing generation, the costs of transmission and distribution services, and transition and general access charges.

“Vertical market power”, a situation in which 1 or a few market participants, having joint ownership of facilities at differing levels of the chain of production, such as generation, transmission and distribution, possess the ability to use such joint ownership to influence price to his or their own benefit.

“Wholesaler”, a person, corporation, firm or any part or subsidiary of any firm which supplies, sells, transfers or otherwise furnishes petroleum products to resellers or end-users.

“Wholesale generation company”, a company engaged in the business of producing, manufacturing or generating electricity for sale at wholesale only.

**SECTION 58.** Said section 1A of said chapter 164, as appearing in the 2006 Official Edition, is hereby amended by adding the following subsection:-

(f) Neither this section nor sections 1B to 1H, inclusive, shall preclude an electric company or a distribution company from constructing, owning and operating generation facilities that produce solar energy; provided, however, that such company shall not own or operate more than 25 megawatts of such facilities before January 1, 2009, and 50 megawatts of such a facility after January 1, 2010. No electric company or distribution company may recover costs associated with the construction of a generating facility producing solar energy

without obtaining prior approval for the costs from the department. Upon the filing by an electric company or a distribution company of a petition for pre-approval of cost recovery for a solar energy generating facility, the department shall determine whether the proposal is consistent with the commonwealth's energy policy and could be used to satisfy, in part, the renewable energy portfolio standard requirements set forth in section 11F of chapter 25A. The department shall issue an order within 6 months after the date of filing by the electric company or distribution company. The department may adopt such rules and regulations as may be necessary to implement this subsection.

**SECTION 59.** Subsection (f) of section 1A of chapter 164 of the General Laws is hereby repealed.

**SECTION 60.** Section 1D of said chapter 164, as so appearing, is hereby amended by adding the following 3 paragraphs:-

Residential or small commercial customers: (a) initiating new utility service; (b) reinstating service following a change of residence or business location; (c) making an inquiry regarding their rates; or (d) seeking information regarding energy efficiency shall be offered the option to learn about their ability to enroll with a participating non-utility competitive supplier of energy. Customers expressing an interest in learning about their electric supply options shall be informed of offers available by participating non-utility competitive suppliers. The electric distribution company shall describe then available offers available through a method approved by the department.

Participating non-utility competitive suppliers of energy may list qualifying electric offers to provide electric generation service to residential and small commercial customers in each customer's utility bill. The department shall determine the manner such information is presented in customers' utility bills.

For electric suppliers who have chosen the complete billing method, the electric distribution company shall make timely payments to such suppliers in accordance with this paragraph. The distribution company shall: (a) bill all of the electric supplier's customers in a service class according to complete billing; (b) pay such suppliers the full amounts due from customers for generation services in a time period consistent with the average payment period of the participating class of customer, less a percentage of such amounts that reflects the average of the uncollectible bills for the participating customer classes of the electric distribution company and other reasonable development, operating or carrying costs incurred, as approved by the department.

**SECTION 61.** Subsection (c) of section 1E of said chapter 164, as so appearing, is hereby amended by striking out, in line 34, the figure "2" and inserting in place thereof the following figure:- 2.5.

**SECTION 62.** Section 1F of said chapter 164, as so appearing, is hereby amended by striking out, in line 90, the word "division" and inserting in place thereof the following word:- department.

**SECTION 63.** Subparagraph (i) of paragraph (4) of section 1F of said chapter 164, as so appearing, is hereby amended by striking out the second paragraph.



**SECTION 64.** Said paragraph (4) of said section 1F of said chapter 164, as so appearing, is hereby further amended by striking out subparagraphs (ii) and (iii) and inserting in place thereof the following subparagraph:-

(ii) A residential customer eligible for low-income discount rates shall receive the service on demand. Each distribution company shall periodically notify all customers of the availability and method of obtaining low-income discount rates. An existing residential customer eligible for a low-income discount on the date of the start of retail access who orders service for the first time from a distribution company shall be offered basic service by that distribution company.

**SECTION 65.** Section 1G of said chapter 164, as so appearing, is hereby amended by striking out, in lines 366 and 367, the words “government regulations” and inserting in place thereof the following words:- telecommunications, utilities and energy.

**SECTION 66.** Section 47C of said chapter 164, as so appearing, is hereby amended by adding the following subsection:-

(1) The activities of a municipal lighting plant cooperative shall not be imputed to its individual members and the provision of energy brokering and other energy-related services by a municipal lighting plant cooperative to retail customers without any accompanying sale of electricity to such retail customers shall not constitute the supply of generation services by its members for the purposes of subsection (b) of section 47A.

**SECTION 67.** Section 76D of said chapter 164, as so appearing, is hereby amended by inserting after the word “companies”, in lines 1 and 2, in line 14, the third time it appears, and in line 20, the second time it appears, the following words:-, steam distribution companies.

**SECTION 68.** Said section 76D of said chapter 164, as so appearing, is hereby amended by inserting after the word “company”, in line 9, the following words:-, steam distribution company.

**SECTION 69.** Said chapter 164 is hereby further amended by striking out section 96, as so appearing, and inserting in place thereof the following section:-

Section 96. Companies, except steam distribution companies, subject to this chapter and their holding companies may, notwithstanding any other provisions of this chapter or of any general or special law, consolidate or merge with one another, or may sell and convey their properties to another of such companies or to a wholesale generation company and such other company may purchase such properties if such purchase, sale, consolidation or merger, and the terms thereof, have been approved, at meetings called therefor, by vote of the holders of at least two-thirds of each class of stock outstanding and entitled to vote on the question of each of the contracting companies, and that the department, after notice and a public hearing, has determined that such purchase and sale or consolidation or merger, and the terms thereof, are consistent with the public interest; provided, however, that in making such a determination the department shall at a minimum consider: proposed rate changes, if any; the long term strategies that will assure a reliable, cost effective energy delivery system; any

anticipated interruptions in service; or other factors which may negatively impact customer service; and provided further, that the purchase or sale of properties by, or the consolidation or merger of, wholesale generation companies shall not require departmental approval.

**SECTION 70.** Section 116 of said chapter 164, as so appearing, is hereby amended by inserting after the word “secretary”, in line 2, the following words:- or municipal lighting plant manager.

**SECTION 71.** Said section 116 of said chapter 164, as so appearing, is hereby further amended by inserting after the word “removal,”, in lines 11 and 12, the following words:- the gas or electric company employing.

**SECTION 72.** Said section 116 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 16, the word “such” and inserting in place thereof the following words:- a duly authorized.

**SECTION 73.** Said section 116 of said chapter 164, as so appearing, is hereby further amended by adding the following sentence:- A gas or electric company may direct a duly authorized employee to restore meters, pipes, wires, fittings, works or service, consistent with the local bargaining agreement entered into by the company and the local bargaining unit to which the employee belongs.

**SECTION 74.** Section 134 of said chapter 164, as so appearing, is hereby amended by striking out, in lines 31, 51 and 75, the word “division” and inserting in place thereof, in each instance, the following word:- department.

**SECTION 75.** The fourth paragraph of section 134 of said chapter 164, as so appearing, is hereby amended by striking out the last sentence.

**SECTION 76.** Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 56 and 64, the words “standard offer” and inserting in place thereof, in each instance, the following word:- basic.

**SECTION 77.** Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 74, the words “standard offer” and inserting in place thereof the following words:- basic service.

**SECTION 78.** Said chapter 164 is hereby further amended by adding the following 6 sections:-

Section 138. As used in this section and sections 139 and 140, the following words shall, unless the context otherwise requires, have the following meanings:-

“Agricultural net metering facility”, a renewable energy generating facility operated as part of an agricultural business that generates electricity that does not have a generation capacity of more than 2 megawatts and is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the business.

“Agriculture”, the same meaning as provided in section 1A of chapter 128; provided, however, that when necessary, the commissioner of agricultural resources shall determine if a business is an agricultural business.

“Class I net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (ii) distribution kilowatt-hour charge; (iii) transmission kilowatt-hour charge; and (iv) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25; and provided further, that credit for a Class I net metering facility not using solar or wind as its energy source shall be the average monthly clearing price at the ISO-NE.

“Class I net metering facility”, a plant or equipment that is used to produce, manufacture or otherwise generate electricity and that is not a transmission facility and that has a design capacity of 60 kilowatts or less.

“Class II net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (ii) distribution kilowatt-hour charge; (iii) transmission kilowatt-hour charge; and (iv) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

“Class II net metering facility”, an agricultural net metering facility, solar net metering facility, or wind net metering facility with a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt; provided, however, that a Class II net metering facility owned or operated by a customer which is a municipality or other governmental entity may have a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt per unit.

“Class III net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (ii) transmission kilowatt-hour charge; and (iii) transition kilowatt-hour charge; provided, however, that if a customer is a municipality or other governmental entity, the credit shall be equal to the excess kilowatt-hours multiplied by the sum of (i), (ii) and (iii) and the distribution kilowatt-hour charge; and provided further, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

“Class III net metering facility”, an agricultural net metering facility, solar net metering facility, or wind-net-metering facility with a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts; provided, however, that a Class III net metering facility owned or operated by a customer which is a municipality or other governmental entity may have a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts per solar net metering or wind net metering unit.

“Customer”, a customer of a distribution company that is entitled to the net metering credits, including net metering facilities.



“Neighborhood”, a geographic area including and limited to a unique community of interests that is recognized as such by residents of such area and which, in addition to residential and undeveloped properties, may encompass commercial properties.

“Neighborhood net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (ii) transmission kilowatt-hour charge; and (iii) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

“Neighborhood net metering facility”, a Class I, II or III net metering facility that: (i) is owned by, or serves the energy needs of, a group of 10 or more residential customers that resides in a single neighborhood and is served by a single distribution company; and (ii) is located within the same neighborhood as the customers that own or are served by the facility.

“Net metering”, the process of measuring the difference between electricity delivered by a distribution company and electricity generated by a Class I, Class II, Class III or neighborhood net metering facility and fed back to the distribution company.

“Renewable energy”, energy generated from any source that qualifies as a Class I or Class II renewable energy generating source under section 11F of chapter 25A; provided, however, that after conducting administrative proceedings, the department of energy resources, in consultation with the department of agriculture, may add technologies or technology categories.

“Solar net metering facility”, a facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a distribution company.

“Wind net metering facility”, a facility for the production of electrical energy that uses wind to generate electricity and is interconnected to a distribution company.

Section 139. (a) A distribution company customer that uses electricity generated by a Class I or Class II net metering facility may elect net metering as follows:

(1) If the electricity generated by the Class I or Class II net metering facility during a billing period exceeds the customer’s kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess Class I or Class II net metering credits shall be credited to the customer’s account. Credits may be carried forward from month to month. A Class I or Class II wind or solar net metering facility may designate customers of the same distribution company to which the Class I or Class II wind or solar net metering facility is interconnected and that are located in the same ISO-NE load zone to receive such credits in amounts attributed by the Class I or Class II wind or solar net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to such customers shall be in a form as the distribution company shall reasonably require.

(2) If the customer’s kilowatt-hour usage exceeds the electricity generated by the Class I or Class II net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company’s applicable rate.

(b) A distribution company customer that uses electricity generated by a Class III net metering facility may elect net metering as follows:

(1) If the electricity generated by the Class III net metering facility during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess Class III net metering credits shall be credited to the customer's account. Credits may be carried forward from month to month. A Class III net metering facility may designate customers of the same distribution company to which the Class III net metering facility is interconnected and that are located in the same ISO-NE load zone to receive such credits in amounts attributed to such customers by the Class III net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to such customers shall be in a form as the distribution company shall reasonably require. A distribution company may elect not to allocate such credits and instead may purchase net metering credits from the facility at the rates provided for in this subsection.

(2) If the customer's kilowatt-hour usage exceeds the electricity generated by the Class III net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company's applicable rate.

(c) The distribution portion of any Class I, Class II or Class III net metering credits and distribution company delivery charges displaced by a Class I, Class II or Class III net metering facility shall be aggregated by the distribution company and billed to all customers on an annual basis through a uniform per kilowatt-hour surcharge or surcharges.

(d) The distribution company shall impose tariffs, as may be approved from time to time by the department, regarding necessary interconnection studies and the type, costs and timeframe for installing metering and distribution system upgrades to accommodate these installations. Such tariffs shall require that all facilities maintain adequate insurance. Distribution companies shall be prohibited from imposing special fees on Class I net metering facilities, such as backup charges and demand charges, or additional controls or liability insurance, as long as the facility meets the other requirements of the interconnection tariff and all relevant safety and power quality standards.

Before providing net metering service under this section, a Class II or III net metering facility shall provide all necessary information to, and cooperate with, the distribution utility to which it is interconnected to enable the distribution utility to obtain the appropriate asset identification for reporting generation to ISO-NE.

(e) A Class I, II or III net metering facility or net metering customer shall not be: an electric utility, generation company, aggregator, supplier, energy marketer or energy broker, within the meaning of those terms as defined in sections 1 and 1F.

(f) The aggregate capacity of net metering shall not exceed 1 per cent of the distribution company's peak load. For the purpose of calculating the aggregate capacity, the capacity of a solar net metering facility shall be 80 per cent of the facility's direct current rating at standard test conditions and the capacity of a wind net metering facility shall be the nameplate rating.

(g) The department shall adopt rules and regulations necessary to carry out this section.

Section 140. A neighborhood net metering facility shall elect net metering as follows:

(a) If the electricity generated by the neighborhood net metering facility during a billing period exceeds its kilowatt-hour usage during the billing period, the neighborhood net metering facility shall be billed for 0 kilowatt-hour usage and the excess neighborhood net metering credits shall be credited to those customers identified by the neighborhood net metering facility as being served by the same company to which the neighborhood net metering facility is interconnected, residing in the same neighborhood in which the neighborhood net metering facility is located and having an ownership interest in the neighborhood net metering facility. The amount of the excess neighborhood net metering credits to be attributed to each such customer shall be determined by the allocation provided by the neighborhood net metering facility. Credits may be carried forward by such customers from month to month. Written notice of the identity of the customers so designated and the allocation of the credits to be attributed to such customers shall be in such form as the distribution company shall reasonably require.

(b) The department shall adopt rules and regulations necessary to carry out this section, including, but not limited to, further defining the term “neighborhood” and limiting the number of customers that may be designated by neighborhood net metering facilities to receive neighborhood net metering credits.

Section 141. In all decisions or actions regarding rate designs, the department shall consider the impacts of such actions, including the impact of new financial incentives on the successful development of energy efficiency and on-site generation. Where the scale of on-site generation would have an impact on affordability for low-income customers, a fully compensating adjustment shall be made to the low-income rate discount.

Section 142. The department shall continue to remove any impediments to the development of efficient, low-emissions distributed generation, including combined heat and power, taking into account the need to appropriately allocate any associated costs in a fair and equitable manner. For the purposes of this section, “efficient, low-emissions” shall mean an efficiency of 60 per cent or greater on an annual basis and emissions lower than required by the department of environmental protection.

Section 143. (a) For the purposes of this section, the term “small municipal renewable energy generating facility” shall mean a generating unit that is designed for, or capable of, operating at a gross capacity of less than 10 megawatts and that qualifies as a Class I renewable energy generating source under section 11F of chapter 25A.

(b) Notwithstanding any general or special law to the contrary, a municipality may design, install, own and operate small municipal renewable energy generating facilities, sell any electricity generated from such facilities and sell any other marketable products resulting from its generation of renewable energy at such facilities, including electronic certificates created to represent the generation attributes, as defined in 225 CMR 14.02, of each mega-



watt hour of energy generated by the renewable energy facilities; provided, however, that no later than 15 days after the initiation of a procurement of services, equipment or materials related to a small municipal renewable energy generating facility and again no later than 15 days after the date that such small municipal renewable energy generating facility first produces electrical energy, said municipality shall submit a report to the department of public utilities and the department of energy resources detailing the costs of the small municipal renewable energy generating facility and a plan and forecast for the disposition of the facility's products. The department of energy resources shall annually issue a report containing information on small municipal renewable energy generating facilities, including the number, capacity, production and performance of such facilities and recommendations, if any, for additional legislative action to increase the benefits available to municipalities through ownership of renewable energy generating facilities. The department of energy resources shall submit such report, including drafts of legislation to implement recommendations within such report, to the joint committee on telecommunications, utilities and energy and the senate and house committees on ways and means not later than April 30 of each year.

(c) A municipality may issue from time to time bonds or notes in order to finance all or a portion of the costs of small municipal renewable energy generating facility projects authorized under this section. Notwithstanding any provision of chapter 44 to the contrary, the maturities of any such bonds issued by a municipality hereunder 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 municipal 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 after the anticipated date of commencement of the regular operation of the small municipal renewable energy generating facilities financed thereby, as determined by the municipal 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 section shall not be included in determining the limit of indebtedness of a municipality under section 10 of said chapter 44 but, except as otherwise provided in this subsection, shall be subject to the provisions of said chapter 44.

(d) A municipality shall procure any services required for the design, installation, improvement, repair and operation of small municipal renewable energy generating facilities authorized under this section, and acquire any equipment necessary in connection therewith, in accordance with the procurement requirements of chapter 30B as applicable. A municipality may procure any such services and equipment together as 1 procurement or as separate procurements thereunder.

(e) A municipality may establish an enterprise fund under section 53F½ of chapter 44 for the receipt of all revenues from the operation of small municipal renewable energy generating facilities authorized under this section to operate and all moneys received for the

benefit of such small municipal renewable energy generating facilities, other than the proceeds of bonds or notes issued therefor. Such receipts shall be used to pay the costs of operation and maintenance of the small municipal renewable energy generating facilities, to pay the costs of future improvements and repairs thereto and to pay the principals and interest on any bonds or notes issued therefor.

**SECTION 79.** The General Laws are hereby further amended by inserting after chapter 164A the following chapter:-

**CHAPTER 164B.**

**REGULATION OF STEAM DISTRIBUTION COMPANIES.**

Section 1. For purposes of this chapter, the term “department” shall refer to the department of public utilities. The department shall have supervision of facilities operated by steam distribution companies for the sole purpose of ensuring public safety and shall establish reasonable rules and regulations pertaining to the construction and operation of steam distribution facilities and equipment used in manufacturing and transporting steam. The department shall keep itself informed as to the methods, practices, and condition of all facilities and equipment associated with the distribution of steam, including ducts and conduits, and shall make such examinations and investigations of the steam distribution system as necessary, including the adequacy of operation, maintenance and capital improvements to insure safe operation of facilities operated by a steam distribution company.

Section 2. Each steam distribution company shall file a certified copy of its certificate of incorporation and bylaws with the department. By March first of each year each company shall file a report on safety related matters as the department may specify, including but not limited to number, duration and causes of all steam leakage incidents, distribution system accidents and service outages, time elapsed between the incident and the return to service following a repair. The department may levy fines against a steam distribution company for failure to comply with regulations promulgated by the department. In determining the appropriateness of any fine, the department shall consider the seriousness of the violation and the good faith compliance efforts of the steam distribution company.

Section 3. The department shall provide written notice to the attorney general of any violation of this chapter. The department’s authority shall not diminish the authority of any municipality to regulate steam distribution, nor shall it diminish the authority of the department of public safety under chapter 146.

Section 4. Any entity operating a steam distribution system that does not meet the definition of a steam distribution company set forth in section 1 of chapter 164 shall be exempt from the requirements of this chapter and section 18A of chapter 25 if the entity files a detailed inspection and maintenance plan with the department every 2 years.

**SECTION 80.** Section 17B of chapter 271 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words “energy, as defined in paragraph (d) of section twelve of chapter one hundred and fifty-nine” and inserting in place thereof the following words:- cable or the department of public utilities.



**SECTION 81.** Section 22 of chapter 140 of the acts of 2005 is hereby amended by striking out the words “11C of chapter 25” and inserting in place thereof the following words:- 11I of chapter 25A.

**SECTION 82.** Section 23 of said chapter 140 is hereby amended by striking out the words “11C of chapter 25” and inserting in place thereof the following words:- 11I of chapter 25A.

**SECTION 83.** Commencing on July 1, 2009, and continuing for a period of 5 years thereafter, each distribution company, as defined in section 1 of chapter 164 of the General Laws, shall be required twice in that 5 year period to solicit proposals from renewable energy developers and, provided reasonable proposals have been received, enter into cost-effective long-term contracts to facilitate the financing of renewable energy generation within the jurisdictional boundaries of the commonwealth, including state waters, or in adjacent federal waters. Distribution companies may also voluntarily solicit additional proposals over the 5 year period. The timetable and method for solicitation and execution of such contracts shall be proposed by the distribution company in consultation with the department of energy resources and shall be subject to review and approval by the department of public utilities. This long-term contracting obligation shall be separate and distinct from the electric distribution companies’ obligation to meet applicable annual renewable portfolio standard, hereinafter referred to as RPS, requirements, set forth in section 11F of chapter 25A of the General Laws.

For purposes of this section, a long-term contract is defined as a contract with a term of 10 to 15 years. In developing the provisions of proposed long term contracts, the distribution company shall consider multiple contracting methods, including long-term contracts for renewable energy certificates, hereinafter referred to as RECs, for energy, and for a combination of both RECs and energy. The electric distribution company shall select a reasonable method of soliciting proposals from renewable energy developers, which may include public solicitations, individual negotiations or other methods. The distribution company may decline to consider contract proposals having terms and conditions that it determines would require the contract obligation to place an unreasonable burden on the distribution company’s balance sheet. The distribution company shall consult with the department of energy resources regarding its choice of contracting methods and solicitation methods. All proposed contracts shall be subject to the review and approval of the department of public utilities.

The department of public utilities and the department of energy resources each shall adopt regulations consistent with this section. The regulations shall: (a) allow renewable energy developers to submit proposals for long-term contracts conforming to the contracting methods specified in the second paragraph; (b) require that contracts executed by the distribution company under such proposals are filed with, and approved by, the department of public utilities before they become effective; (c) provide for an annual remuneration for the contracting distribution company equal to 4 per cent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term



contract, such provision to be acted upon by the department of public utilities at the time of contract approval; and (d) require that the renewable energy generating source to be used by a developer under the proposal meet the following criteria: (1) have a commercial operation date, as verified by the department of energy resources, on or after January 1, 2008; (2) be qualified by the department of energy resources as eligible to participate in the RPS program, under said section 11F of chapter 25A, and to sell RECs under the program; and (3) be determined by the department of public utilities to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to moderating system peak load requirements; (iii) be cost effective to Massachusetts electric ratepayers over the term of the contract; and (iv) where feasible, create additional employment in the commonwealth. As part of its approval process, the department of public utilities shall consider the attorney general's recommendations, which shall be submitted to the department of public utilities within 45 days following the filing of such contracts with the department of public utilities. The department of public utilities shall take into consideration both the potential costs and benefits of such contracts, and shall approve a contract only upon a finding that it is a cost effective mechanism for procuring renewable energy on a long-term basis.

Distribution companies shall not be obligated to enter into long-term contracts under this section that would, in the aggregate, exceed 3 per cent of the total energy demand from all distribution customers in the service territory of the distribution company. As long as the electric distribution company has entered into long term contracts in compliance with this section, it shall not be required by regulation or order to enter into contracts with terms of more than 3 years in meeting its applicable annual RPS requirements set forth in said section 11F of said chapter 25A, unless the department of public utilities finds that such contracts are in the best interest of customers; provided, however, that the electric distribution company may execute such contracts voluntarily, subject to the department of public utilities' approval.

An electric distribution company may elect to use any energy purchased under such contracts for resale to its customers, and may elect to retain RECs for the purpose of meeting the applicable annual RPS requirements set forth in said section 11F of said chapter 25A. If the energy and RECs are not so used, such companies shall sell such purchased energy into the wholesale spot market and shall sell such purchased RECs through a competitive bid process. Notwithstanding the foregoing, the department of energy resources shall conduct periodic reviews to determine the impact on the energy and REC markets of the disposition of energy and RECs hereunder, and may issue reports recommending legislative changes if it determines that actions are being taken that will adversely affect the energy and REC markets.

If the distribution company sells the purchased energy into the wholesale spot market and auctions the RECs as described in the fifth paragraph, the distribution company shall net the cost of payments made to projects under the long-term contracts against the proceeds obtained from the sale of energy and RECs, and the difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution

rates, subject to review and approval of the department of public utilities. The reconciliation process shall be designed so that the distribution company recovers all costs incurred under such contracts.

If the RPS requirements of said section 11F of said chapter 25A should ever terminate, the obligation to continue periodic solicitations to enter into long term contracts shall cease, but contracts already executed and approved by the department of public utilities shall remain in full force and effect.

On or before July 1, 2010, and annually until the long-term contracting requirement expires, the department of energy resources shall assess whether the long-term contracting requirements set forth in this section reasonably support the renewable energy goals of the commonwealth as set forth in said section 11F of said chapter 25A, and whether the alternative compliance rate established under said section 11F should be adjusted accordingly.

The provisions of this section shall not limit consideration of other contracts for RECs or power submitted by a distribution company for review and approval by the department of public utilities.

If any provision of this section is subject to a judicial challenge, the department of public utilities may suspend the applicability of the challenged provision during the pendency of the judicial action until final resolution of the challenge and any appeals, and shall issue such orders and take such other actions as are necessary to ensure that the provisions that are not challenged are implemented expeditiously to achieve the public purposes of this provision.

**SECTION 84.** The secretary of energy and environmental affairs shall, in conjunction with the department of public utilities, implement an “energy pay and save”, hereinafter referred to as EPS, pilot program, allowing electric utility customers to purchase and install energy efficient or renewable energy products in their residences or commercial facilities by paying the cost of the system over time through an additional charge on the customer's electricity bill. The cost of the products purchased under the pilot program shall be added to the electric utility customer's utility bills in a form approved by the department, as a monthly EPS tariff, and shall be paid until the cost of purchase and installation of the products is paid off. The payment structure shall be implemented so that the charge on the electric utility customer's utility bill shall be less than that customer's energy savings over the course of each given year. Non-payment by the owner of the EPS tariff shall result in disconnection and a utility shall be entitled to recover the debt.

The pilot program shall be established with a minimum of 50 participants and a maximum of 200 participants. The maximum project size for the program shall be \$1,000 for commercial utility customers and \$500 for residential utility customers. Portable electrical cost measures shall not be funded. Quick pay options shall be investigated, allowing customers to have the option to pay off the entire balance of the amount financed on the first billing cycle. The program shall be funded from such sources as determined by the secretary of energy and environmental affairs and such funds shall be used to offset the

cost of the program for the utilities, and as such payments for the purchases are paid to said utilities.

The pilot program shall be implemented on or before April 1, 2009, and shall expire on December 31, 2009. The secretary and the department shall issue a final report, which shall include the results of its review and analysis, to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means on or before July 31, 2010.

**SECTION 85.** On or before April 1, 2009, each electric distribution company shall file a proposed plan with the department of public utilities to establish a smart grid pilot program. Each such pilot program shall utilize advanced technology to operate an integrated grid network communication system in a limited geographic area. Each pilot program shall include, but not be limited to advanced (“smart”) meters that provide real time measurement and communication of energy consumption, automated load management systems embedded within current demand-side management programs and remote status detection and operation of distribution system equipment. On or before April 1, 2009, each electric distribution company shall file a proposal with the department of public utilities to implement a pilot program that requires time of use or hourly pricing for commodity service for a minimum of 0.25 per cent of the company’s customers. A specific objective of the pilot shall be to reduce, for those customers who actively participate in the pilot, peak and average loads by a minimum of 5 per cent. The department shall work with the electric distribution companies to identify specific areas of study, and may incorporate and utilize information from past relevant studies or pilot programs. The department shall review and approve or modify such plans on or before August 1, 2010. Plans which provide for larger numbers of customers and can show higher bill savings than outlined above shall be eligible to earn incentives as outlined in an approved plan. The programs filed by the distribution company shall include proposals for rate treatment of incremental program costs; provided, however, that such program costs shall be deemed by the department to be a cost of basic service and recovered in rates charged for basic service. Following the completion of the pilot programs, the secretary of energy and environmental affairs shall submit a report to the joint committee on telecommunications, utilities and energy not later than September 1, 2012 detailing the operation and results of such programs, including information concerning changes in consumer’s energy use patterns, an assessment of the value of the program to both participants and non-participants and recommendations concerning modification of the programs and further implementation.

**SECTION 86.** The department of public utilities shall direct all distribution companies, as defined in section 1F of chapter 164 of the General Laws, to submit a plan within 60 days of the effective date of this act providing for retail access to competitive sellers of renewable energy generation attributes, whether or not bundled with electricity. The department shall approve or modify such plan after an opportunity for notice and comment by all interested persons and shall ensure that such plan does not provide distribution



companies with a market advantage over competitive suppliers of renewable energy generation attributes; provided, however, that if a distribution company provides retail access to competitive sellers of renewable energy generation attributes before the effective date of this act, it shall not be required to file a plan under this section.

**SECTION 87.** There is hereby established a special commission to consist of 3 members of the senate, 1 of whom shall be the senate chair for the joint committee on telecommunications, utilities and energy who shall serve as co-chair, and 1 of whom shall be appointed by the senate minority leader; 3 members of the house of representatives, 1 of whom shall be the house chair for the joint committee on telecommunications, utilities and energy who shall serve as co-chair, and 1 of whom shall be appointed by the house minority leader; the commissioner of energy resources or a designee; the secretary of energy and environmental affairs or a designee; and 3 persons to be appointed by the governor, 1 of whom shall be a representative of the waste-to-energy industry, and 1 of whom shall be a representative of a consumer advocacy organization, for the purpose of making an investigation and study relative to the burning of construction and demolition waste as it relates to the renewable energy portfolio standard program established by section 11F of chapter 25A of the General Laws. The commission shall report the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the senate and the house of representatives on or before July 1, 2009.

**SECTION 88.** There shall be a green building plan commission to examine the environmental and economic impact of establishing a green building plan for the commonwealth. The members of the commission shall be as follows: the commissioner of energy resources or a designee; the director of housing and community development or a designee; the secretary of environmental affairs or a designee; the secretary of administration and finance or a designee; 2 members of the senate, 1 of whom shall be appointed by the senate minority leader; 2 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; the lieutenant governor or a designee, who shall be the chair of the commission; 1 person to be appointed by the Worcester Polytechnic Institute; 1 person to be appointed by the chancellor of the University of Massachusetts at Lowell; 1 person to be appointed by the president of the Massachusetts Institute of Technology; the director of the Massachusetts Technology Collaborative or a designee; 1 person to be appointed by the commissioner of the revenue; 1 person appointed by the Massachusetts Municipal Association; and a representative of the Boston Society of Architects. The chair shall have no vote except in the event of a tie vote. The commission shall file a report of its findings with the clerks of the senate and house of representatives not later than December 31, 2009.

**SECTION 89.** There shall be a commission which shall study the siting of energy facilities in the commonwealth. The study shall include, but not be limited to, the following: (a) the development of a procedure for coordinating and consolidating applications to cons-

tract generating facilities between and among the energy facilities siting board, the department of environmental protection and other appropriate agencies, to enable one-stop shopping for necessary permits or certificates or other appropriate streamlining of the permitting system; (b) the expansion of such coordinated procedures to other energy facilities, if appropriate; (c) possible changes to the energy facilities siting board's procedures for reviewing electric and gas transmission lines in light of recent and proposed changes in the structure and regulation of the electric and gas industries, including regional approaches to the siting of such facilities; (d) clarification of the energy facilities siting board's jurisdiction over the re-powering of existing generating facilities at existing sites and the appropriate standards for reviewing such re-powerings; (e) the development of coordinated procedures to examine the reuse of existing industrial sites for the development of generating facilities; (f) the issue of application fees paid by developers to the energy facilities siting board and the correlation of such fees to the board's procedures, as statutorily revised under this act, in reviewing such applications; provided, however, that the study shall include, but not be limited to, recommendations, if any, on reducing the application fee paid by developers to the board in light of the board's statutorily revised standards of review of such applications under this act; (g) the establishment of a site characterization and suitability commission within the department of environmental protection, which would promulgate criteria to be applied to sites included in an application before the energy facilities siting board and rule on suitability of a proposed site as before the application is approved; and (h) the possibility of requiring applicants to provide either (1) evidence that the proposed facility would employ the best available and most efficient technology to control and reduce water withdrawals, or (2) a description of the environmental impacts, costs and reliability of the water withdrawal method chosen and an explanation of why the proposed technology was chosen; (i) whether current laws and regulations do not adequately facilitate the siting of renewable and alternative energy facilities, or whether they make it more difficult to site renewable energy facilities than fossil-fueled energy facilities, and, if either is the case, to make recommendations for changes to such laws and regulations; and (j) whether renewable and alternative energy generating facilities other than a waste-to-energy facility should be allowed as of right on property zoned for industrial use.

The commission shall consist of the secretary of energy and environmental affairs or a designee, who shall be the chair of the commission; the secretary of housing and economic development or a designee; the commissioner of energy resources or a designee; the commissioner of environmental protection or a designee; the commissioner of conservation and recreation or a designee; the director of coastal zone management or a designee; the director of the department of fish and game or a designee; 1 member of the energy facilities siting board; 3 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; 3 members of the senate, 1 of whom shall be appointed by the senate minority leader; 1 representative of the gas industry; and 2 representatives of ratepayers, 1 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the senate president; and the following members who shall be appointed by the chair of



the commission: 1 municipal official to be nominated by the Massachusetts Municipal Association; 2 representatives of environmental organizations, 1 of which shall be a land and water conservation organization; 2 representatives of the alternative and renewable energy industry; 1 representative of the electric industry; and 2 representatives to be nominated by the AFL-CIO. The commission shall file a report with its finding, including any legislative and regulatory recommendations, with the clerks of the senate and house of representatives, the joint committee on telecommunications, utilities and energy and the senate and house committees on ways and means not later than 18 months after the effective date of this act.

**SECTION 90.** The department of energy resources shall establish a pilot program to assist consumers with the purchase of energy efficient items for residential home modifications, hereinafter referred to as the HEAT Loan Program. For the purposes of this program, energy efficient items shall include home insulation, new window installation, advanced programmable thermostats, micro-combined heat and power systems, fuel efficient furnaces, boilers, oil, gas, propane, or electric heating systems; solar, domestic or fuel efficient hot water systems; materials for insulation or sealing of a duct, attic, basement, rim joint or wall; pipe insulation for heating systems; or other retail items for use in a residential dwelling that increase the energy efficiency of the dwelling. In establishing the program, the department 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 that is certified by the executive office of energy and environmental affairs 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 section 19 of chapter 25 of the General Laws and allocated to residential customers. Not less than \$5 million shall be made available to assist participating financial institutions in offering these loan products by or through interest rate write downs or other credit enhancement features. Loans offered under the program shall be offered to residential homeowners in the commonwealth solely for the purposes stated in this section.

The department shall make such loans available for purchases made on or after January 1, 2009, but not later than December 31, 2009. The department 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, energy efficiency product requirements and lending institution tracking and reporting requirements. The department shall submit a report detailing the rules and guidelines and the program results to the joint committee on telecommunications, utilities and energy not later than June 30, 2010.

**SECTION 91.** On or before January 1, 2011, the department of public utilities, in consultation with the department of energy resources, shall file a report on the effectiveness of the programs administered under section 19 of chapter 25 of the General Laws. The report shall include a financial accounting of all funds incurred by and administered under the section, and any recommendations deemed appropriate by the department of public utilities,



including but not limited to, the increase, reduction or elimination of any mandatory charges authorized under said section 19 of said chapter 25 as they may relate to programs and plans under sections 21 and 22 of said chapter 25; provided, however, that any recommendation for reduction or elimination should include a mechanism to ensure continued adequate funding for comprehensive low-income, demand side management and education programs. The report shall be filed with the clerks of the senate and house of representatives, the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means.

**SECTION 92.** The department of public utilities shall hold a public hearing and issue a report, not later than July 1, 2009, relative to the maintenance and improvements of gate boxes of gas utilities located in the streets, roads or sidewalks. The report shall include, but not be limited to, an evaluation of the frequency of maintenance of gate boxes, the standards and practices employed by gas utilities to determine when maintenance of gate boxes is necessary, existing collaborations and communication between gas utilities and municipalities and state agencies when dealing with gate boxes on municipal and state roadways, and rate impacts and cost benefit analysis. The department shall report its findings, recommendations, any proposed penalties, and legislation, if any to the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means.

The department of public utilities shall hold a public hearing and issue a report, not later than July 1, 2009, relative to maintenance and repair standards for distribution systems of investor-owned electric and gas utilities. The department shall investigate and report on the establishment of performance or prescriptive standards or both that provide for inspection cycles for all overhead and underground facilities designed to minimize or prevent service interruptions and ensure high quality, safe and reliable service through the maintenance of detailed compliance reporting by distribution companies and annual review by the department. The department shall consider cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment and experience, and appropriate sanctions, including rate deductions or monetary fines for non-compliance. The department shall report its findings, recommendations and proposed legislation, if any, to the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means.

**SECTION 93.** Notwithstanding any general or special law to the contrary, the department of energy resources shall make available monies from amounts collected through Alternative Compliance Payments established and administered under 225 CMR 14.00 adopted under section 11F of chapter 25A of the General Laws, in the form of grants or other financial incentives for the following: (a) the green communities program established under section 10 of said chapter 25A; (b) state or community colleges in the commonwealth engaged in developing renewable energy generation projects, energy generation demonstration and educational programs, or applied engineering teaching tools pertaining to energy generation; (c) commonwealth-based companies engaged in developing flywheel

energy storage technologies; and (d) funding capital investments in new and existing generation units for the use of department of environmental protection approved beneficial use determination paper derived fuels manufactured by Massachusetts corporations.

**SECTION 94.** The department of public utilities, in consultation with the department of energy resources, shall review and assess the effects of allowing electric and distribution companies to construct, own or operate solar generation facilities under subsection (f) of section 1A of chapter 164 of the General Laws. This report shall be completed and filed with the joint committee on telecommunications, utilities and energy, and the house and senate committees on ways and means, and the clerks of the senate and house of representatives not later than June 30, 2011. This report shall include any legislative and regulatory recommendations including but not limited to continuation, expansion or elimination of any provisions of this program under said subsection (f) of said section 1A of said chapter 164.

**SECTION 95.** The merger or consolidation of holding companies under section 96 of chapter 164 of the General Laws that has been filed and approved by the Federal Energy Regulatory Commission before the effective date of this act shall not be subject to the requirements of said section 96 of said chapter 164.

**SECTION 96.** The department of energy resources, in consultation with the division of capital asset management and maintenance, shall establish, not later than July 1, 2009, a methodology for use by agencies in assessing life-cycle costs that includes the requirements and assumptions set forth in subsections (a) and (b) of section 39D of chapter 7 of the General Laws.

**SECTION 97.** On or before December 31, 2009, the energy advisory council appointed under section 22 of chapter 25 of the General Laws shall undertake, using third party experts, a study which examines the energy efficiency and demand response programs in the commonwealth, including all public and private funding sources. The study shall include an audit of all existing energy efficiency and demand response programs to identify the costs and benefits associated with such programs. Such third party experts shall not have any contractual relationship with an electric or natural gas distribution company doing business in the commonwealth or any affiliate of such company.

**SECTION 98.** Not later than September 1, 2009, the department of public utilities shall establish terms and conditions under which a participating non-utility competitive supplier may be included in the program described in section 1D of chapter 164 of the General Laws.

**SECTION 99.** The Massachusetts Turnpike Authority shall develop a plan, in consultation with the executive office of transportation and the executive office of energy and environmental affairs, for the availability of alternative fuel at each fueling facility or service terminal on the Massachusetts Turnpike. The plan shall provide for the availability of alternative fuel at such locations not later than January 1, 2014. If the authority determines that such availability is not feasible for any reason, including the status of leases

it has with its tenants on the Massachusetts Turnpike, it shall report those findings, together with the reasons therefor and the status of similar plans or projects of adjacent states, if any, to the senate and house committees on ways and means and the joint committee on transportation not later than January 31, 2009.

**SECTION 100.** (a) The commissioner of energy resources, in consultation with the secretary of administration and finance, the secretary of transportation, the general manager of the Massachusetts Bay Transportation Authority, a representative of the regional transit authorities, the secretary of economic affairs, the secretary of energy and environmental affairs and the operation services division, shall develop a statewide master plan for the advancement of hybrid and alternative fuel vehicles, as defined in section 1 of chapter 90 of the General Laws, and related technology.

(b) The plan shall encompass a 10-year period, beginning in 2010, and shall be divisible in increments of not less than 5 years. The plan shall take into account the geographic diversity of the commonwealth, its present and projected demographics, present and projected transportation needs and infrastructure, and current, emerging and foreseeable alternative fuel and vehicle technologies, and may establish goals for areas such as the purchase and use of hybrid and alternative fuel vehicles, as well as the production, import action or distribution of alternative fuels.

(c) The plan shall identify strategies and corresponding methods of achieving its identified goals together with necessary administration and legislative actions. The plan shall be filed with the clerks of the senate and house of representatives not later than 18 months after the effective date of this act.

**SECTION 101.** The operational services division, in consultation with the executive office of transportation, the secretary of administration and finance, the department of energy resources, the Massachusetts Bay Transportation Authority and regional transit authorities, shall study the feasibility of developing and implementing a system to facilitate the bulk purchase of alternative fuel vehicles by the commonwealth and its political subdivisions. The study shall include, but shall not be limited to, the potential cost savings to be derived from such a system, the cost of the system administration, appropriate purchasers to participate in the system and the probability of utilization of the system by such purchasers.

The operational services division shall file its findings of the study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect, with the clerks of the senate and house of representatives not later than 1 year after the effective date of this act.

**SECTION 102.** The department of public utilities, in consultation with the department of energy resources, shall hold a public hearing to examine the impacts on the competitive retail electricity marketplace through the existing electric utility default service adjustment mechanism. This public hearing shall include an examination of all costs that are recovered from ratepayers through this charge and recommended changes to insure that appropriate price signals are sent to the marketplace in order for customers to make informed decisions about their energy consumption based on price. The department of public utilities



shall hold the public hearing not later than May 1, 2009. The department of public utilities shall file a report of its findings, including any legislative or regulatory recommendations, with the joint committee on telecommunications, utilities and energy and with the clerks of the senate and the house of representatives not later than June 1, 2009.

**SECTION 103.** Each electric distribution company under section 1D of chapter 164 of the General Laws shall file a compliance plan, complete with an effective date, indicating its compliance with the last paragraph of said section 1D of said chapter 164 within 3 months after the effective date of this act.

**SECTION 104.** The first report required to be filed by the division of green communities under subsection (f) of section 10 of chapter 25A shall be filed with the clerks of the senate and the house of representatives, the joint committee on telecommunications, utilities, and energy, and the senate and the house committees on ways and means not later than April 1, 2010.

**SECTION 105.** (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Department”, the department of energy resources.

“Generator”, the person that owns, directly or indirectly, as determined by the department, the output from the renewable energy generating source that is located in the ISO-NE control area, as defined in section 1 of chapter 164 of the General Laws or in a control area adjacent to the ISO-NE control area.

“Person”, an individual, corporation, limited liability company, general or limited partnership, trust, association or other entity, or an agent of such person.

(b) A renewable energy generating source, as defined in subsection (b) of section 11F of chapter 25A of the General Laws, that is physically located in or relocated to a control area adjacent to the ISO-NE control area may qualify as an eligible renewable energy generating source under said section 11F; provided, however, that the renewable energy generated by such renewable energy generating source is delivered into and used by consumers within the ISO-NE control area.

(c) The delivery of renewable energy into the ISO-NE control area, as described in subsection (b), shall not qualify under the renewable portfolio standard, notwithstanding such delivery into the ISO-NE control area, unless the generator of such renewable energy: (1) initiates the import transaction pursuant to a spot market sale into the ISO-NE administered markets or under a bilateral sales contract with a purchaser of the renewable energy located in the ISO-NE control area by properly completing a North American Electric Reliability Corporation tag from the generator in the adjacent control area to either a node or zone in the ISO-NE control area; (2) complies with all ISO-NE rules and regulations required to schedule and deliver the renewable energy generating source’s energy into the ISO-NE control area; and (3) commits the renewable generating source as a committed capacity resource for the applicable annual period.

(d) During any period in which the generator is delivering renewable energy from the

renewable energy generating source into the ISO-NE control area, and notwithstanding compliance with subsection (c), the renewable energy generated by the renewable energy generating source that is eligible for the renewable portfolio standard shall be limited to the lesser of the following: (1) the renewable energy actually generated by the renewable energy generating source; or (2) the renewable energy actually scheduled and delivered into the ISO-NE control area by the generator.

(e) The renewable portfolio standard credit applicable to the eligible renewable energy as determined under subsection (d) shall be reduced by any exports of energy from the ISO-NE control area made by the person seeking renewable portfolio credit for such renewable energy or any affiliate of such person, or any other person under contract with such person to export energy from the ISO-NE control area and deliver such energy directly or indirectly to such person.

(f) The department may adopt regulations and requirements to implement this section.

(g) The department shall assess the feasibility of implementing subsections (c) and (e) and report its findings along with proposed regulations for implementing these subsections in accordance with section 12 of chapter 25A, on or before November 1, 2008.

(h) Subsections (c) and (e) shall take effect, subject to the provisions of section 12 of chapter 25A, after the report required under subsection (g) has been filed if the department has determined that it is feasible to implement these subsections.

**SECTION 106.** The department of housing and community development shall make recommendations regarding what supplemental state funds, if any, shall be expended for the federal Low Income Home Energy Assistance Program, under 42 U.S.C. § 8621 et seq., for the purpose of assisting low-income elders, working families and other households with the purchase of heating oil, propane, natural gas, electricity and other primary or secondary heating sources; provided, however, that any recommended expenditures in addition to any federal funding shall be made in accordance with the state plan submitted by the department of housing and community development in accordance with the federal program. The recommendations shall include recommended funding levels and funding sources. The department of housing and community development shall submit its first report on its recommendations to the joint committee on telecommunications, utilities and energy not later than October 1, 2009, and shall file reports annually not later than October 1.

**SECTION 107.** The department of energy resources shall conduct a study of the fiscal impact, viability, statutory and regulatory barriers and long-term results of establishing and operating municipal-owned electric utilities in the commonwealth. The study shall: (a) address any existing inequities or other barriers preventing the establishment of municipal-owned electric utilities in current statutes or regulations; (b) provide a financial overview of the purchase of an investor owned utility's assets by a municipality; and (c) include a review of the impact on: reliability; investor owned utility operations; municipal taxes; rates for both distribution company customers and municipal customers; lost revenues for investor owned utilities; effect on energy efficiency programs; the impact on capital borrowing; and impact on low-income customers.

There shall be a commission that shall advise the commissioner of energy resources with respect to this study. The commission shall be comprised of the commissioner or a designee who shall serve as chair, and 11 other members as follows: 4 of whom shall be appointed by the executive director of the Massachusetts Municipal Association, 3 of whom shall be from municipalities that are interested in establishing a municipal electric utility; 1 of whom shall be appointed by the attorney general and who shall be from the office of the attorney general; 1 of whom shall be appointed by the commissioner of the department of public utilities and who shall be from the department of public utilities; 1 of whom shall be a municipal finance expert recommended by the Massachusetts Taxpayers Foundation; 1 of whom shall be a representative of the Utility Workers of America; and 2 of whom shall be representatives to be appointed on a voluntary basis by the commissioner, 1 of whom shall be an executive from an investor-owned utility and the other of whom shall be an executive of an existing municipal electric utility. The department of energy resources shall submit the study to the joint committee on telecommunications, utilities and energy not later than January 1, 2009.

**SECTION 108.** (a) On or before October 1, 2009, the department of energy resources shall collaborate with the University of Massachusetts at Boston to establish an educational outreach pilot program designed for communities to further the goals set forth in this section. The pilot program shall include educational programs provided at the University of Massachusetts at Boston, community colleges and community centers. The pilot program shall include short courses designed for presentation at convenient times for communities, including evenings and weekends.

(b) The content of such courses shall include, but not be limited to, the following:

(1) the need for broad public-private collaboration to achieve the acceleration of customer-orientated energy efficiency and conservation programs;

(2) a short-term concentration on retrofitting existing energy control systems to achieve significant energy and financial savings as well recent advancements in this technology;

(3) the basic principles of personal financial accounting to demonstrate that capital investment should achieve the savings identified in clause (2);

(4) the demonstration of the major cost savings of instituting energy efficiency and conservation programs, including demand side management planning, as compared with the costs of purchasing energy;

(5) existing programs available through public utilities, municipal lighting departments, municipal aggregators and other entities to assist customers with their energy reduction, including any prospective expansion thereof;

(6) the benefits to all energy users resulting from the reduction by individual users of their energy consumption, which reduces the burden on public utilities to procure increasing amounts of energy overall and at moments of peak usage; and

(7) any additional benefits as energy usage becomes more sustainable in the commonwealth.



(c) In preparing and revising the syllabus for such courses, the University of Massachusetts at Boston, shall periodically consult with the department of energy resources, other governmental entities and public utilities to receive feedback about the program. Public utilities may provide instructors for such courses.

(d) The department of energy resources shall issue a report detailing the progress of the pilot program to the clerks of the senate and the house representatives, the joint committee on telecommunications, utilities and energy, and the senate and house committee on ways and means, on or before October 1, 2010.

**SECTION 109.** Notwithstanding any general or special law to the contrary, the department of public utilities shall open an investigation and study relative to off-the-record ex-parte communications in any contested, on-the-record proceeding before the department. The department shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and the house of representatives who shall forward the same to the chairs of the joint committee on telecommunications, utilities and energy on or before April 1, 2009.

**SECTION 110.** Notwithstanding subsection (c) of section 19 of chapter 25 of the General Laws, for 3 years after the expiration of each electric or gas company efficiency plan or agreement in place as of January 1, 2008, the amount and percentage allocated to the low-income residential subclass for the electric or gas company shall not be reduced to less than the amount provided under law, guidelines and agreements in force as of January 1, 2009.

**SECTION 111.** The first plans required under section 21 of chapter 25 of the General Laws shall be prepared and submitted to the energy efficiency advisory council on or before April 30, 2009. The electric and natural gas distribution companies and municipal aggregators shall submit these plans, together with the energy efficiency advisory council's approval or comments and a statement of any unresolved issues, to the department of public utilities on or before October 31, 2009.

**SECTION 112.** Not later than March 1, 2009, the department of environmental protection, in consultation with the department of energy resources, shall adopt regulations for the implementation of section 22 of chapter 21A of the General Laws.

**SECTION 113.** Clause (i) of paragraph (1) of subsection (c) of section 22 of chapter 21A of the General Laws shall not impact any enforceable multiyear agreements effective during the period from January 1, 2007, through the implementation of the Regional Greenhouse Gas Initiative, as defined in said section 22 of said chapter 21A.

**SECTION 114.** Said clause (i) of said paragraph (1) of said subsection (c) of said section 22 of said chapter 21A shall be effective for tax years beginning on or after January 1, 2009 and shall expire on December 31, 2011.

**SECTION 115.** Notwithstanding paragraph (2) of subsection (c) of section 22 of chapter 21A of the General Laws, the department of environmental protection may withhold

from auction such allowances of vintage years 2009 to 2012, inclusive, as may be necessary to provide a transition to the Regional Greenhouse Gas Initiative from the program established under 310 CMR 7.29.

**SECTION 116.** (a) It is hereby established that the commonwealth's renewable and alternative energy and energy efficiency goals are as follows:-

(1) meet at least 25 per cent of the commonwealth's electric load, including both capacity and energy, by the year 2020 with demand side resources including: energy efficiency, load management, demand response and generation that is located behind a customer's meter including a combined heat and power system with an annual efficiency of 60 per cent or greater with the goal of 80 per cent annual efficiency for combined heat and power systems by 2020;

(2) meet at least 20 per cent of the commonwealth's electric load by the year 2020 through new, renewable and alternative energy generation;

(3) reduce the use of fossil fuel in buildings by 10 per cent from 2007 levels by the year 2020 through the increased efficiency of both equipment and the building envelope;

(4) develop a plan to reduce total energy consumption in the commonwealth by at least 10 per cent by 2017 through the development and implementation of the green communities program, established by section 10 of chapter 25A of the General Laws, that utilizes renewable energy, demand reduction, conservation and energy efficiency. Not later than September 1 of each year, the secretary of energy and environmental affairs shall establish an annual reduction target for the commonwealth for the following calendar year.

(b) The secretary of energy and environmental affairs shall prepare, with the assistance of the energy advisory board established under subsection (c), a 5-year plan for meeting the renewable and alternative energy and energy efficiency goals of the commonwealth. The plan shall include strategies to meet each of the goals and shall also address the following topics:

(1) reduction of energy use in state buildings;

(2) reduction of energy use in municipal buildings;

(3) equitable distribution of program benefits to all customers and particularly low income customers to address the affordability and adverse impacts on low-income households of energy costs and demand mitigation strategies, and mitigation of such adverse impacts, such as by compensating adjustments to the low-income rate discount;

(4) the use of investment tax credits and tax policy generally to encourage investment in energy efficiency and renewable and alternative technologies;

(5) increased generation and use of renewable and alternative energy;

(6) the coordination and integration of programs within the commonwealth and with regional efforts carried out by other New England states; and

(7) progress towards improving the efficiency of buildings and mechanical systems on an all-fuels basis including, electric, gas and oil.

(c) The secretary of energy and environmental affairs shall appoint an advisory board to assist in the development and review of the plan. The board shall meet at the call of the

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secretary. The secretary shall submit the plan to the speaker of the house of representatives, the president of the senate, the senate and house committees on ways and means, and the joint committee on telecommunications, utilities and energy.

(d) The 5-year plan shall designate the agency responsible for implementation of each strategy and shall include timelines, performance standards, specific regulatory or legislative changes, evaluation procedures and additional budget requirements.

**SECTION 117.** Section 21 of chapter 21A of the General Laws shall take effect on July 1, 2008.

**SECTION 118.** Subsections (c), (d) and (e) of section 11F of chapter 25A of the General Laws shall take effect on January 1, 2009.

**SECTION 119.** Subsection (a) of section 11F½ of chapter 25A of the General Laws shall take effect on January 1, 2009.

**SECTION 120.** Subsection (o) of chapter 143 of the General Laws shall take effect 6 months after the effective date of this act.

**SECTION 121.** Section 5 shall take effect 1 year after the effective date of this act.

**SECTION 122.** Section 59 shall take effect on June 30, 2012.

**SECTION 123.** Section 53 shall take effect 3 years after the effective date of this act

**SECTION 124.** Section 80 shall take effect on April 10, 2007.

Approved July 2, 2008

## **Chapter 170. AN ACT AUTHORIZING THE ESTABLISHMENT OF A FIREARMS LICENSING FUND IN THE TOWN OF GOSHEN.**

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

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Goshen may establish a Firearms Licensing Fund. The town treasurer shall keep the fund separate and apart from all other funds of the town and shall deposit in the fund the town's share of all monies associated with firearms licensing. The town treasurer may invest the monies in the manner prescribed in sections 54 and 55 of said chapter 44. The chief of police or a person authorized to act on his behalf shall expend the principal and income from the fund for fees to the commonwealth for firearms licensing, firearms training for officers and the general public and for all costs associated with firearms licensing.

Approved July 2, 2008



**Chapter 171. AN ACT RELATIVE TO CERTAIN SEWER CONNECTIONS IN THE TOWN OF ESSEX.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Essex may limit connections to and extensions of the town’s sewer system in the manner set forth in section 7 of chapter VII of the town’s general by-laws adopted at the 2000 annual town meeting and revised at the 2001 and 2002 annual town meetings.

**SECTION 2.** By a vote of the town meeting, the town of Essex may further amend section 7 of chapter VII of the town’s general by-laws in a manner consistent with this act, but such amendment shall be subject to the approval of the department of environmental protection.

Approved July 2, 2008

**Chapter 172. AN ACT PROVIDING THE TERMS OF CERTAIN BONDS TO BE ISSUED BY THE COMMONWEALTH TO FINANCE IMPROVEMENTS TO THE COMMONWEALTH’S TRANSPORTATION SYSTEM.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate capital improvement needs of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under sections 24, 25, 26, 27 and 28 of chapter 86 of the acts of 2008 shall be issued for terms not to exceed 30 years. All such bonds shall be payable not later than June 30, 2043, as recommended by the governor in a message to the general court dated April 22, 2008, under section 3 of Article LXII of the Amendments to the Constitution.

Approved July 3, 2008

**Chapter 173. AN ACT RELATIVE TO TAX FAIRNESS AND BUSINESS COMPETITIVENESS.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith changes in the rate and administration of the corporate excise, 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 sixth paragraph of section 5B of chapter 29 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:- Any revision of the revenue estimate made by the commissioner shall be published and made available to the general public in a conspicuous manner on the commonwealth's official website within 14 days of submission of such revisions to the governor.

**SECTION 2.** Clause Sixteenth of section 5 of chapter 59 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out paragraph (2) and inserting in place thereof the following paragraph:—

(2) In the case of a business corporation subject to tax under section 39 of chapter 63 that is not a manufacturing corporation, all property owned by the corporation other than the following:- real estate, poles, underground conduits, wires and pipes, and machinery used in the conduct of the business, which term, as used in this clause, shall not be considered to include stock in trade or any personal property directly used in connection with dry cleaning or laundering processes or in the refrigeration of goods or in the air-conditioning of premises or in any purchasing, selling, accounting or administrative function.

**SECTION 3.** Said clause Sixteenth of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out, in lines 247 to 251, inclusive, the words “(a) a domestic manufacturing corporation or a domestic research and development corporation as defined in section thirty-eight C of chapter sixty-three or (b) a foreign manufacturing corporation or a foreign research and development corporation as defined in section forty-two B of said chapter” and inserting in place thereof the following words:- a manufacturing corporation or a research and development corporation as defined in section 42B of chapter 63.

**SECTION 4.** Said clause Sixteenth of said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 264 and 265, the words “domestic research and development corporation as defined in section 38C of chapter 63 or a foreign”.

**SECTION 5.** Said clause Sixteenth of said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out paragraph (5) and inserting in place thereof the following paragraph:-

(5) The classification by the commissioner or the appellate tax board of a corporation as a business corporation or a manufacturing corporation, as respectively defined as aforesaid, shall be followed in the assessment under this chapter of machinery used in the conduct of the business.

**SECTION 6.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out clause Sixteenth A.

**SECTION 7.** Section 18 of said chapter 59, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words “domestic business and foreign corporations as

defined in section thirty of chapter sixty-three” and inserting in place thereof the following words:- business corporations subject to tax under section 39 of chapter 63.

**SECTION 8.** Said section 18 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 38 and 39, the words “domestic business or foreign corporation, as defined in section thirty of chapter sixty-three” and inserting in place thereof the following words:-business corporation subject to tax under section 39 of chapter 63.

**SECTION 9.** Section 33 of said chapter 59, as so appearing, is hereby amended by striking out, in lines 6 to 10, inclusive, the words “domestic business corporations and foreign corporations as respectively defined in section thirty of chapter sixty-three, and domestic manufacturing corporations and foreign manufacturing corporations as respectively defined in sections thirty-eight C and forty-two B of said chapter” and inserting in place thereof the following words:- business corporations subject to tax under section 39 of chapter 63.

**SECTION 10.** Section 83 of said chapter 59, as so appearing, is hereby amended by striking out, in line 2, the words “domestic and foreign”.

**SECTION 11.** Section 1 of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following 3 paragraphs:-

(p) “Partnership”, an entity that is classified for the taxable year as a partnership for federal income tax purposes, except as otherwise provided in this chapter.

(q) “Disregarded entity”, an entity that is disregarded as a separate entity from its owner for federal income tax purposes. Such an entity shall be similarly disregarded for purposes of this chapter; and, without limitation, all income, assets, and activities of the entity shall be considered to be those of the owner.

(r) “Tax-free earnings and profits”, earnings and profits that were considered tax-free earnings and profits under section 8 as in effect on December 31, 2008.

**SECTION 12.** Paragraph (1) of subsection (a) of section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (E).

**SECTION 13.** Paragraph (2) of said subsection (a) of said section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (B).

**SECTION 14.** Said paragraph (2) of said subsection (a) of said section 2 of said chapter 62, as so appearing, is hereby further amended by striking out subparagraph (D) and inserting in place thereof the following subparagraph:-

(D) Dividends received from a corporate trust subject to taxation under section 8, as in effect on December 31, 2008, to the extent that they are derived from earnings and profits previously taxed to the trust under said section 8, but only to the extent that the trust properly filed returns and paid all taxes due.

**SECTION 15.** Paragraph (1) of subsection (d) of said section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (J).

**SECTION 16.** Section 4 of said chapter 62, as so appearing, is hereby amended by striking out, in lines 1 to 4, inclusive, the words “non-residents shall be taxed, to the extent



specified in section five A on their taxable income, and corporate trusts shall be taxed to the extent specified in section eight” and inserting in place thereof the following words:- and non-residents shall be taxed to the extent specified in section 5A.

**SECTION 17.** Subsection (a) of section 6 of said chapter 62, as so appearing, is hereby amended by adding the following paragraph:-

In the case of dividends received out of tax-free earnings and profits of a corporate trust previously subject to tax under this chapter, shareholders of the corporate trust shall be entitled to a credit for income taxes paid to other jurisdictions on those earnings and profits, either by the corporate trust or by the shareholders, as otherwise calculated under this subsection.

**SECTION 18.** Subsection (h) of said section 6 of said chapter 62, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- With respect to a person who is a nonresident for all or part of the taxable year, the credit shall be limited to 15 per cent of the federal credit multiplied by a fraction the numerator of which shall be the earned income of the nonresident from Massachusetts sources and the denominator of which shall be the earned income of the nonresident from all sources.

**SECTION 19.** Section 8 of said chapter 62 is hereby repealed.

**SECTION 20.** The first paragraph of section 17 of said chapter 62, as appearing in the 2006 Official Edition, is hereby amended by striking out the third and fourth sentences.

**SECTION 21.** Section 17A of said chapter 62, as so appearing, is hereby amended by striking out subsection (e).

**SECTION 22.** Section 19 of said chapter 62 is hereby repealed.

**SECTION 23.** Section 6 of chapter 62C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 8 to 11, inclusive, the words “every corporate trust taxable under section eight of chapter sixty-two, and every other corporate trust doing business within the commonwealth and every other” and inserting in place thereof the following words:- and every.

**SECTION 24.** Said section 6 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 32, the word “domestic” and inserting in place thereof the following word:- business.

**SECTION 25.** Section 7 of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “, other than a corporate trust as defined in chapter sixty-two,”.

**SECTION 26.** Said chapter 62C is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. Except as otherwise provided in this chapter, every business corporation, as defined in section 30 of chapter 63, shall, on or before the fifteenth day of the third month following the close of each taxable year, file a return providing such information as the commissioner deems necessary for the determination of the taxes imposed upon it by chapter 63.

**SECTION 27.** Section 51 of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “domestic or foreign business corporation” and by inserting in place thereof the following words:- business corporation as defined in section 30 of chapter 63.

**SECTION 28.** The definition of “Financial institution” in section 1 of chapter 63 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The term “corporation” as used in this definition shall mean any corporation, or any “other entity” as defined in section 1.40 of chapter 156D, whether the corporation or other entity may be formed, organized, or operated in or under the laws of the commonwealth or any other jurisdiction, that is classified for the taxable year as a corporation for federal income tax purposes.

**SECTION 29.** Section 2 of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the words “subsection (b)” and inserting in place thereof the following words:- subsections (b) and (d).

**SECTION 30.** Said section 2 of said chapter 63, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Any corporation taxable under this section shall pay an excise measured by its net income determined to be taxable under section 2A at the following rates:- (i) for each taxable year beginning on or after January 1, 1995, but before January 1, 2010, 10.5 per cent; (ii) for each taxable year beginning on or after January 1, 2010, but before January 1, 2011, 10.0 per cent; (iii) for each taxable year beginning on or after January 1, 2011, but before January 1, 2012, 9.5 per cent; or (iv) for each taxable year beginning on or after January 1, 2012 and thereafter, 9.0 per cent; provided, however, that in no case shall the excise imposed under this section amount to less than \$456.

**SECTION 31.** Said section 2 of said chapter 63, as so appearing, is hereby further amended by adding the following subsection:-

(d) Any financial institution that is an S corporation, as defined in section 1361 of the Code, shall not be subject to the tax provided in subsections (a) and (b) and shall instead be subject to the excise in section 2B.

**SECTION 32.** Said chapter 63 is hereby further amended by inserting after section 2A the following section:-

Section 2B. (a) Any financial institution which is an S corporation, as defined under section 1361 of the Code, shall pay, on account of each taxable year, an excise measured by its net income determined to be taxable under section 2A as follows:-

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

subject to tax at the following rates:- (i) for each taxable year beginning on or after January 1, 1995, but before January 1, 2010, 10.5 per cent; (ii) for each taxable year beginning on or after January 1, 2010, but before January 1, 2011, 10.0 per cent; (iii) for each taxable year beginning on or after January 1, 2011, but before January 1, 2012, 9.5 per cent; or (iv) for each taxable year beginning on or after January 1, 2012 and thereafter, 9.0 per cent.

(2) Any financial institution which is an S corporation and has total receipts for the taxable year of at least \$6,000,000 but less than \$9,000,000 shall include in its excise an amount determined by multiplying its net income determined to be taxable in accordance with this chapter by two-thirds of the rate specified in clause (3).

(3) Any financial institution which is an S corporation and has total receipts for the taxable year of \$9,000,000 or more shall also include in its excise an amount determined by multiplying its net income determined to be taxable in accordance with this chapter by a rate calculated by subtracting the rate applicable to Part B taxable income for that year in subsection (b) of section 4 of chapter 62 from the rate applicable to financial institutions in that taxable year under subsection (b) of section 2 of chapter 63.

(4) Qualified subchapter S subsidiaries shall not be subject to separate entity level taxation under this section; provided, however, that the parent S corporation shall be subject to tax under this section and shall include the income and take into account the activities of all qualified subchapter S subsidiaries for purposes of calculating the excise due under paragraphs (1), (2) and (3). The parent S corporation and its qualified subchapter S subsidiaries shall be jointly and severally liable for the tax due under this chapter.

(b) The excise imposed under this section for each taxable year shall be not less than \$456.

(5) For purposes of paragraphs (2) and (3), net income determined to be taxable in accordance with this chapter shall be determined without taking into account subchapter S of the Code and shall not include income that is taxed to S corporation at the entity level under paragraph (1). For purposes of said paragraphs (2) and (3), the term "total receipts" shall mean gross receipts or sales, less returns and allowances, and shall include dividends, interest, royalties, capital gain net income, rental income and all other income; provided, however, that the cost of goods sold or the cost of operations shall not be deductible in determining these total receipts; and provided further, that the commissioner shall, by regulation, apply limits on an aggregate basis to S corporations engaged in unitary business with majority direct or indirect ownership by common stockholders, which shall include any other type of entity so engaged and so owned which the commissioner finds was established for the purpose of avoiding the foregoing limit.

**SECTION 33.** Said chapter 63 is hereby further amended by striking out section 22, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 22. Every domestic insurance company coming within the scope of the definition of a domestic company in section 1 of chapter 175, except life insurance companies with respect to amounts received as consideration for annuity contracts and business taxable



under section 20 and marine, or fire and marine, insurance companies with respect to business taxable under section 29A, shall annually pay an excise of 2.28 per cent upon the gross premiums for all policies written or renewed, all additional premiums charged, and all assessments made by such company on policyholders during the preceding calendar year, exclusive of reinsurance; but such premiums and assessments for policies written or renewed for insurance, exclusive of reinsurance, of property or interests in other states or countries where a tax is actually paid by such company, or its agents, shall not be so taxed. For purposes of calculating the credit under section 29E of this chapter, the term “surtax” is hereby defined as the portion of the excise imposed under this section equal to 0.28 per cent.

**SECTION 34.** Said chapter 63 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:-

Section 23. Every foreign insurance company coming within the scope of the definition of a foreign company in section 1 of chapter 175, except life insurance companies with respect to business taxable under sections 20 and 21 and marine, or fire and marine, insurance companies with respect to business taxable under section 29A, shall annually pay an excise upon the gross premiums for all policies written or renewed, all additional premiums charged, and all assessments made during the preceding calendar year for insurance of property or interests in this commonwealth, or which are subjects of insurance by contracts issued through companies or agents therein, exclusive of reinsurance, at the rate of 2.28 per cent but not less in amount than would be imposed by the laws of the state or country under which such company is organized upon a like insurance company incorporated in this commonwealth, or upon its agents, if doing business to the same extent in such state or country.

**SECTION 35.** Section 29A of said chapter 63, as so appearing, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1) Every marine, or fire and marine, insurance company authorized to transact business in the commonwealth coming within the scope of the definition of a domestic company or of a foreign company in section 1 of chapter 175, shall, with respect to all insurance written within the commonwealth upon hulls, freights, or disbursements, or upon goods, wares, merchandise and all other personal property and interests therein, in course of exportation from any country, importation into any country, or transportation coastwise including transportation by land or water from point of origin to final destination in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit or transportation, any portion of which exportation, importation, transportation, navigation, transit, or shipment is upon any ocean, and upon the property while being prepared for and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto, including war risks and marine builders risks, pay a tax of 5.7 per cent on its taxable underwriting profit, ascertained as hereinafter provided, from such insurance written within the commonwealth.

**SECTION 36.** Subsection (a) of section 29E of said chapter 63, as so appearing, is hereby amended by striking out the definition of “Retaliatory taxes” and inserting in place

thereof the following definition:-

“Retaliatory taxes”, those taxes imposed or assessed by and paid to another jurisdiction by any domestic property and casualty insurer due to the surtax as defined in section 22 of this chapter. Such term, however, shall not include penalties or interest for late payment of taxes.

**SECTION 37.** Section 30 of said chapter 63, as so appearing, is hereby amended by striking out the introductory clause and inserting in place thereof the following introductory clause:-

When used in this section and in sections 31 to 52, inclusive, the following terms shall have the following meanings, and the terms “business corporation,” “disregarded entity,” and “partnership,” defined in paragraphs 1, 2 and 16 of this section, shall, unless otherwise provided, also have the following meanings and effect for purposes of all sections of this chapter:-

**SECTION 38.** Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out paragraphs 1 and 2 and inserting in place thereof the following 2 paragraphs:-

1. “Business corporation”, any corporation, or any “other entity” as defined in section 1.40 of chapter 156D, whether the corporation or other entity may be formed, organized, or operated in or under the laws of the Commonwealth or any other jurisdiction, and whether organized for business or for non-profit purposes, that is classified for the taxable year as a corporation for federal income tax purposes.

2. “Disregarded entity”, an entity that is disregarded as a separate entity from its owner for federal income tax purposes. Such an entity shall similarly be disregarded for purposes of this chapter, and without limitation, all income, assets, and activities of the entity shall be considered to be those of the owner.

**SECTION 39.** Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 178, the word “foreign” and inserting in place thereof the following word:- business.

**SECTION 40.** Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 184 and 192, the words “thirty-two or”.

**SECTION 41.** Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 196 to 198, inclusive, the words, “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” and inserting in place thereof the following words:- business corporation taxable under.

**SECTION 42.** Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out paragraph 16 and inserting in place thereof the following 2 paragraphs:-

16. “Partnership”, any entity that is classified as a partnership for federal income tax purposes for the taxable year.

17. Except as otherwise provided in this chapter, the term “Code” shall mean the Internal Revenue Code of the United States, as amended and in effect for the taxable year.

**SECTION 43.** Subsection (h) of section 31A of said chapter 63, as so appearing, is hereby amended by striking out the second sentence.

**SECTION 44.** Section 31B of said chapter 63 is hereby repealed.

**SECTION 45.** Section 31E of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 1, the words “domestic or foreign” and inserting in place thereof the following word:- business.

**SECTION 46.** Said chapter 63 is hereby further amended by inserting after section 31L the following section:-

Section 31M. In determining gross income under this chapter, if the federal gross income includes any item of gain or has been reduced by any item of loss, with respect to property, then the federal gross income shall be increased by the excess of the federal adjusted basis of the property over the Massachusetts adjusted basis of the property, and shall be decreased by the excess of the Massachusetts adjusted basis of the property over the federal adjusted basis of the property, so that the gain or loss realized for Massachusetts purposes takes into account all applicable differences in the Massachusetts and federal tax rules over the life of an asset that should, in principle, give rise to differences in basis. The Massachusetts adjusted basis of property shall be the federal adjusted basis, except that (i) any federal adjustment resulting from provisions of the Code that were not applicable in determining Massachusetts gross income at the time the federal adjustments were made shall be disregarded; and (ii) adjustments shall be made for any item that was applicable in determining Massachusetts gross income but that was not so applicable in determining federal gross income and for which a federal adjustment would be allowed under the Code if the item had been applicable in determining federal gross income. Without limitation of the foregoing, the federal basis of shares in a business corporation that was formerly treated as a corporate trust or of shares in a successor of that entity shall be reduced in computing Massachusetts adjusted basis to take into account any tax-free earnings and profits accumulated by the former corporate trust.

**SECTION 47.** Section 32 of said chapter 63 is hereby repealed.

**SECTION 48.** Said chapter 63 is hereby further amended by striking out section 32B as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 32B. (a) Notwithstanding any other provision of this chapter, a corporation subject to tax under this chapter and engaged in a unitary business with 1 or more corporations subject to combination within the meaning of this section shall, under regulations adopted by the commissioner, calculate its taxable net income derived from this unitary business as its share, attributable to the commonwealth, of the apportionable income or loss of the combined group engaged in the unitary business, determined in accordance with a combined report. In computing the apportionable income or loss of the combined group and



of each member thereof, items of income, deductions and receipts from transactions between or among members of the combined group, including but not limited to the payment of dividends, shall be eliminated, subject to regulations as may be adopted pursuant to clause (i) of subsection (f).

(b)(1) For purposes of this section, the term “unitary business” shall mean the activities of a group of 2 or more corporations under common ownership that are sufficiently interdependent, integrated or interrelated through their activities so as to provide mutual benefit and produce a significant sharing or exchange of value among them or a significant flow of value between the separate parts. The term unitary business shall be construed to the broadest extent permitted under the United States Constitution.

(2) For purposes of this section, the words “common ownership” shall mean that more than 50 per cent of the voting control of each member of the group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not the owner or owners are members of the combined group. A group of corporations under common ownership may be engaged in 1 or more unitary businesses.

(3) Any business conducted by a partnership shall be treated as the business of the partners, whether the partnership interest is directly held or indirectly held through a series of partnerships, to the extent of the partner’s distributive share of the partnership’s income, regardless of the magnitude of the partner’s ownership interest or its distributive share of partnership income. A business conducted directly or indirectly by 1 corporation is unitary with that portion of a business conducted by another, commonly owned corporation through its direct or indirect interest in a partnership if the activities conducted by the former corporation and the partnership are unitary within the meaning of paragraph (1) regardless of the magnitude of the partner’s ownership interest or its distributive or any other share of partnership income.

(c)(1) Corporations that are subject to combination within the meaning of this section shall include an entity of the kind that is subject to tax or would be subject to tax if doing business in the state under section 2, 2B, 32D, 39 or 52A, as well as an entity described in sections 20 to 29E, inclusive, in any case in which the entity does not qualify for treatment as a life insurance company as defined in section 816 of the Code or an insurance company subject to tax imposed by section 831 of the Code. A corporation is subject to combination irrespective of whether the corporation is actually subject to tax under section 2, 2B, 32D, 39 or 52A. A corporation subject to combination includes a real estate investment trust as referenced under sections 856 to 859, inclusive, of the Code and a regulated investment company as referenced under sections 851 to 855, inclusive, of the Code. Any corporation included in the combined group pursuant to this section that is subject to tax under section 2, 2B, 32D, 39 or 52A shall determine that part of its taxable net income or loss that is derived from a unitary business or from an affiliated group pursuant to an election under paragraph (2) of subsection (g). Such corporation shall not be subject to any duplicate inclusion of income or benefit from any duplicate deduction of loss under section 2, 2B, 32D, 39 or 52A.

(2) A corporation subject to combination within the meaning of this section shall not include an entity described in section 38B or 38Y. In addition, an entity subject to combination within the meaning of this section shall not include an entity described in sections 20 to 29E, inclusive, except as provided in paragraph (1) or otherwise in this chapter.

(3) The members of a combined group subject to tax under this chapter may elect to determine their apportioned share of the taxable net income or loss of the combined group pursuant to a worldwide election under which each taxpayer member, wherever located, shall take into account the income and apportionment factors of all the members includible in the combined group. If the members do not so elect, the combined group shall determine its share of the taxable net income or loss of the combined group on a water's edge basis under which each member shall take into account the income and apportionment factors of only the members that are described in any one or more of the following categories:-

(i) any member incorporated in the United States or formed under the laws of the United States, any state, the District of Columbia, or any territory or possession of the United States;

(ii) any member, regardless of the place incorporated or formed, if the average of its property, payroll, and sales factors within the United States is 20 per cent or more;

(iii) any member that earns more than 20 per cent of its income, directly or indirectly, from intangible property or service-related activities the costs of which generally are deductible for federal income tax purposes, whether currently or over a period of time, against the business income of other members of the group, but only to the extent of that income and the apportionment factors related thereto. A worldwide election shall be effective only if made on a timely-filed, original return for a taxable year by the members of the combined group subject to tax under this chapter. A worldwide election shall be binding for and applicable to the taxable year for which it is made and all taxable years thereafter for a period of 10 years, subject to regulations adopted by the commissioner.

(d)(1) When used in this section, the following words shall have the following meaning:-

"Combined group's taxable income," the aggregate taxable net income or loss subject to apportionment and derived from a unitary business or the aggregate taxable net income or loss from an affiliated group pursuant to an election under paragraph (2) of subsection (g), in either case reported on a combined report in accordance with this section, of every taxable member and non-taxable member of the combined group.

"Non-taxable member," a member of the combined group that is not subject to tax under section 2, 2B, 32D, 39 or 52A.

"Taxable member," a member of the combined group that is subject to tax under section 2, 2B, 32D, 39 or 52A.

(2) A corporation subject to tax under this chapter that is part of a combined group shall apportion its income as follows:-

(i) Subject to this subsection, each taxable member shall determine its apportionment percentage based on its specific apportionment formula pursuant to this chapter.

(ii) Each taxable member shall compute the numerator of its apportionment factors pursuant to the apportionment provisions of this chapter that apply to such member. Each taxable member shall add to its sales factor numerator its share of Massachusetts sales of non-taxable members based on subparagraph (iv). If a combined group includes one or more members that are financial institutions and one or more members that are not financial institutions, the numerators of the property and sales factors of the members shall be adjusted in the same manner as the denominator adjustments described in subparagraph (iii) and such receipts as are added pursuant to such adjustments shall be sourced as provided in section 2A.

(iii) Each member shall calculate its apportionment factor denominators by determining the apportionment factor denominators of every member of the group based upon the apportionment provisions that apply to each member and by aggregating the apportionment factor denominator(s) of each member, regardless of whether any particular member is taxable in the commonwealth. A member shall determine its property and payroll factor denominators by including the property and payroll of all members of the group, including members of the group subject to a single sales factor apportionment formula. Property and payroll of all members, including members subject to single sales factor apportionment, shall be included in the property and payroll denominators of members to which such property and payroll factors apply. If a combined group includes one or more members that are financial institutions and one or more members that are not financial institutions, the following adjustments shall apply: (1) with respect to intangible property included in the property factor denominators of the financial institution members, such intangible property values shall be reduced to 20 per cent of the otherwise determined amounts before combination of the denominators of the group members; (2) receipts described in subsections (d)(i) through (d)(xi) of section 2A of this chapter that would be otherwise excluded from the sales factor of members that are not financial institutions shall be added to the denominators of such non-financial members; and (3) in the case of a sale or deemed sale of a business, receipts from the sale of the business "good will" or similar intangible value, including without limitation "going concern value" and "workforce in place", shall not be included in the sales factor denominators of any member.

(iv) The Massachusetts sales of each non-taxable member shall be determined based upon the apportionment rules applicable to such member and shall be aggregated. Each taxable member of the group shall include in its sales factor numerator a portion of the aggregate Massachusetts sales of non-taxable members based on a ratio, the numerator of which is such taxable member's Massachusetts sales taking into account its applicable sales factor provisions and the denominator of which is the aggregate Massachusetts sales of all the taxable members of the group taking into account their respective sales factor provisions. For purposes of determining whether sales are in the commonwealth and included in the numerator of the sales factor, a taxpayer is considered taxable in any state in which any member of its combined group is subject to tax.



(v) In computing the apportionment percentage of combined group members, each member shall eliminate intercompany transactions, subject to regulations as may be adopted pursuant to clause (i) of subsection (f).

(3) To calculate each member's apportioned taxable net income or loss, each member shall apply its apportionment percentage, as determined under subparagraphs (i) to (v), inclusive, of paragraph (2), to the combined group's taxable income, as defined in paragraph (1).

(4) Each taxable member shall multiply its apportioned taxable net income or loss by the tax rate applicable to such member pursuant to this chapter.

(e) Every member of the combined group shall be jointly and severally liable for the tax due from any taxpayer member under this chapter, including any interest and penalties, to the extent permitted under the constitution of the United States.

(f) The commissioner shall adopt regulations to implement this section and to coordinate the application of this section with the other provisions of this chapter. The regulations shall include rules to address without limitation, the following: (i) the elimination of intercompany transactions, including but not limited to the payments of dividends, between or among combined group members, and the elimination or deferral of income, expenses, apportionment factors or other tax items associated with those transactions and including any exceptions to such eliminations or deferrals under rules analogous to those under section 1502 of the Code; (ii) the sharing within the combined group of credits that may be validly claimed by a taxpayer and that are attributable to the combined group's unitary business, to the extent such sharing of credits by a particular member of the combined group is consistent with the statutory requirements for claiming such credits, taking into account the nature of such member's business and related activities; (iii) the application of any carry forwards, including the sharing of any net operating loss or tax credit carry forwards that are attributable to the activities of the combined group's unitary business, but the carry forward of losses, credits or other tax benefits that arise before the effective date of this section shall be available only to the extent permitted by law as in effect before the effective date; and (iv) the relationship of sections 31I to 31K, inclusive, to this section.

(g)(i). When used in this section, the following words shall have the following meaning:-

"Affiliated group," an affiliated group as defined in section 1504 of the Code except that it shall include all corporations incorporated in the United States or formed under the laws of the United States, any state, the District of Columbia or any territory or possession of the United States that are commonly owned, directly or indirectly, by any member of such affiliated group and other commonly owned corporations as described in paragraph (3) of subsection (c).

"Commonly owned" shall mean more than 50 per cent of the voting control of such member is directly or indirectly owned by a common owner or owners, either corporate or non-corporate.

(ii) A taxpayer may elect, without the consent of the commissioner, to treat as its Massachusetts combined group all corporations that are members of its affiliated group. The corporations referred to above shall include members of such affiliated group that are subject to tax or that would be subject to tax if doing business in the state under section 2, 2B, 32D, 39 or 52A. Such affiliated group shall calculate Massachusetts taxable income in accordance with subsection (d), provided that all income of all group members, whether or not such income would otherwise be subject to apportionment or would be allocable to a particular state in the absence of an election under this subsection, shall be treated as apportionable income for purposes of returns filed pursuant to an election under this subsection. Any such election shall be made on an original, timely filed return by any member of the combined group. Any corporation entering an affiliated group subsequent to the year of election must be included in the Massachusetts combined group and is considered to have waived any objection to its inclusion in the Massachusetts combined group. An election shall be binding for and applicable to the taxable year for which it is made and for the next 9 taxable years. An election may be revoked, or renewed for another 10 taxable years, without the consent of the commissioner after it has been in effect for 10 taxable years, provided however that in the case of a revocation a new election under this subsection shall not be permitted in any of the immediately following three taxable years. The revocation or renewal shall be made on an original, timely filed return for the first taxable year after the completion of a 10-year period for which an election under this subsection was in place.

(iii) The Commissioner shall study the use and revenue impact of the affiliated group election provided by this subsection in the first 3 years in which the election is available and shall provide a report to the Chairs of the House and Senate Committees on Ways and Means and to the Chairs of the Joint Committee on Revenue not later than March 15, 2013. Any taxpayer participating in an affiliated group election under this subsection shall provide such information as the commissioner may request for purposes of such analysis, including information relating to tax filings in other jurisdictions, provided that the report by the commissioner shall include only aggregate information, and shall not identify information relating to particular taxpayers.

**SECTION 49.** Section 32D of said chapter 63, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words “domestic business corporation or foreign corporation subject to an excise under section 32 or 39 which is an S corporation or a qualified subchapter S subsidiary” and inserting in place thereof the following words:—business corporation subject to an excise under section 39 which is an S corporation.

**SECTION 50.** Said section 32D of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 12 to 16, inclusive, the words “. In the case of a qualified subchapter S subsidiary, income shall be included in the net income measure under this subsection to the extent that such income would have been taxed to the subchapter S subsidiary for federal income tax purposes had it been treated as a separate corporation”.

**SECTION 51.** Subsection (a) of said section 32D of said chapter 63, as so appearing, is hereby further amended by striking out clause (ii) and inserting in place

thereof the following clause:-

(ii) Any such business corporation which is an S corporation and has total receipts for the taxable year of \$6,000,000 or more shall also include in the net income measure of the excise imposed under section 39 an amount determined by multiplying its net income determined to be taxable in accordance with this chapter by 1 of the following rates, in lieu of the rate provided in said section 39:-

(1) when the total receipts for the taxable year are at least \$6,000,000 but less than \$9,000,000, the rate shall be two-thirds of the rate specified in clause (2); and

(2) when the total receipts for the taxable year are \$9,000,000 or more, the rate in any taxable year shall be calculated by subtracting the rate applicable to Part B taxable income for that year in subsection (b) of section 4 of chapter 62 from the rate applicable to business corporations in that taxable year under clause (2) of paragraph (a) of subsection (3) of section 39 of chapter 63.

**SECTION 52.** Said section 32D of said chapter 63, as so appearing, is hereby further amended by striking out, in line 31, the words "or qualified subchapter S subsidiary".

**SECTION 53.** Said section 32D of said chapter 63, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Qualified subchapter S subsidiaries shall not be subject to separate entity level taxation under this section or section 39. Rather, the parent S corporation shall be subject to tax under this section and section 39, and shall include the income and take into account the activities of all qualified subchapter S subsidiaries for purposes of determining the excise due under subsection (a) of this section, and shall include the value of the property or the net worth of all qualified subchapter S subsidiaries for purposes of determining the non-income measure of the excise under clause (1) of subsection (a) of section 39. The parent S corporation and its qualified subchapter S subsidiaries shall be jointly and severally liable for the tax due under this chapter.

**SECTION 54.** Said chapter 63 is hereby further amended by striking out section 32E, inserted by section 6 of chapter 63 of the acts of 2007, and inserting in place thereof the following section:-

Section 32E. (a) This section shall apply to certain credits earned under section 38X.

(b) At the written election of a taxpayer entitled to a credit under section 38X, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of the credits.

(c) The commissioner may require substantiation of a taxpayer's claim for a refund under subsection (b) before payment of the refund. No interest shall accrue on a refund under section 40 of chapter 62C before the commissioner's receipt of the substantiation request.

(d) The commissioner shall promulgate regulations or other guidelines as he deems



necessary to implement this section. The commissioner shall submit any proposed regulations to the joint committee on revenue and the house and senate committees on ways and means before their adoption by the department. The regulations shall be accompanied by a summary which clearly instructs the taxpayer of his rights under this section.

**SECTION 55.** Section 33 of said chapter 63 is hereby repealed.

**SECTION 56.** Section 38 of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 2, the words "domestic business corporation or of a foreign corporation" and inserting in place thereof the following words:- business corporation.

**SECTION 57.** Paragraph (1) of subsection (a) of said section 38 of said chapter 63, as so appearing, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) shares in a corporate trust, as defined in section 1 of chapter 62, to the extent such dividends represent tax-free earnings and profits, as defined in section 8 of chapter 62, as in effect on December 31, 2008.

**SECTION 58.** Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 70, the words "thirty-eight C or".

**SECTION 59.** Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 162, the word "and".

**SECTION 60.** Said section 38 of said chapter 63, as so appearing, is hereby further amended by inserting after the word "contracts", in line 169, the following words:- ; and (6) in the case of a sale or deemed sale of a business, the term "sales" does not include receipts from the sale of the business "good will" or similar intangible value, including, without limitation, "going concern value" and "workforce in place."

**SECTION 61.** Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 235, the words "domestic or foreign" and inserting in place thereof, in each instance, the following word:- business.

**SECTION 62.** Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 251 and 252, and in lines 318 and 326, the words "domestic or foreign".

**SECTION 63.** Section 38A of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the word "domestic".

**SECTION 64.** Section 38B of said chapter 63, as so appearing, is hereby amended by striking out, in lines 1 and 2, and in lines 14 and 15, the words ", domestic business corporation or foreign" and inserting in place thereof, in each instance, the following words:- or business.

**SECTION 65.** Said section 38B of said chapter 63, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Any corporation taxable under this section shall not be subject to the excise im-

posed by section 2, 2B, 32D or 39.

**SECTION 66.** Section 38C of said chapter 63 is hereby repealed.

**SECTION 67.** Section 38D of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 2, the words “domestic or foreign”.

**SECTION 68.** Said section 38D of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 86 and 87, the words “(1)(i) of subsection (a) of section thirty-two or clause (1)(i) of subsection (a) of section thirty-nine” and inserting in place thereof the following words:- subclause (i) of clause (1) of subparagraph (a) of the fourth paragraph of section 39.

**SECTION 69.** Section 38E of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the words “domestic or foreign”.

**SECTION 70.** Section 38F of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words “domestic or foreign” and inserting in place thereof the following word:- business.

**SECTION 71.** Section 38G of said chapter 63, as so appearing, is hereby amended by striking out, in line 1 and in line 11, the words “domestic or foreign” and inserting in place thereof, in each instance, the following word:- business.

**SECTION 72.** Section 38H of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words “domestic or foreign”.

**SECTION 73.** Said section 38H of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 55 and 56, the words “clause (1)(i) of subsection (a) of section thirty-two or clause (1)(i) of subsection (a) of section thirty-nine” and inserting in place thereof the following words:- subclause (i) of clause (1) of subparagraph (a) of the fourth paragraph of section 39.

**SECTION 74.** Section 38I of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words “domestic or foreign” and inserting in place thereof the following word:- business.

**SECTION 75.** Section 38J of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words “domestic or foreign”.

**SECTION 76.** Section 38M of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the words “domestic or foreign” and inserting in place thereof the following word:- business.

**SECTION 77.** Said section 38M of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 28 and 29, the words “subsection (b) of section thirty-two, subsection (b) of section thirty-nine,” and inserting in place thereof the following words:- subsection (b) of section 39.

**SECTION 78.** Said section 38M of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 44 and 45, the words “section thirty-two or thirty-nine” and inserting in place thereof the following words:- section 39.

**SECTION 79.** Subsection (a) of section 38Q of said chapter 63, as so appearing, is

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

A business corporation which commences and diligently pursues an environmental response action on or before August 5, 2011 and which achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the regulations adopted under that chapter which includes an activity and use limitation shall, at the time the permanent solution or remedy operation status is achieved, be allowed a base credit of 25 per cent of the net response and removal costs incurred between August 1, 1998 and January 1, 2012 for any property it owns or leases for business purposes and which is located within an economically distressed area as defined in section 2 of chapter 21E, if these costs are not less than 15 per cent of the assessed value of the property before remediation, and if the site was reported to the department of environmental protection. A credit of 50 per cent of these costs shall be allowed for a corporation which achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the Massachusetts contingency plan provided in 310 CMR 40.00 which does not include an activity and use limitation. Only a business corporation that is an eligible person as defined by section 2 of chapter 21E, and not subject to any enforcement action brought under chapter 21E, shall be allowed a credit.

**SECTION 80.** Said section 38Q of said chapter 63, as so amended, is hereby further amended by striking out, in line 61, the words “subsection (b) of section 32 or”.

**SECTION 81.** Section 38S of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 2, the words “domestic or foreign”.

**SECTION 82.** Said chapter 63 is hereby further amended by striking out section 38T, as most recently amended by section 10 of chapter 63 of the acts of 2007, and inserting in place thereof the following section:-

Section 38X. (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 digital media project, 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 25 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 \$50,000 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, at the election of the taxpayer, be refundable to the extent provided for in section 32E. 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 commissioner, in consultation with the secretary, shall promulgate regulations necessary for the administration of this subsection.

**SECTION 83.** Said chapter 63 is hereby further amended by striking out section 38T, inserted by section 28 of chapter 163 of the acts of 2005, and inserting in place thereof the following section:-

Section 38Y. (a) Every business corporation which is exempt from taxation under section 501 of the Code shall be subject to tax under section 39 on its unrelated business taxable income, as defined in section 512 of the Code. The property or net worth of those corporations shall not be subject to tax under this chapter, and the minimum excise under section 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 under section 38, but 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 business corporation for purposes of chapter 59.

**SECTION 84.** Said chapter 63, as appearing in the 2006 Official Edition, is hereby further amended by striking out section 39 and inserting in place thereof the following section:-

Section 39. Except as otherwise provided in this section, every business corporation, organized under the laws of the commonwealth, or exercising its charter or other means of legal authority, or qualified to do business or actually doing business in the commonwealth, or owning or using any part or all of its capital, plant or any other property in the commonwealth, shall pay, on account of each taxable year, the excise provided in subsection (a) or (b), whichever is greater, except that an insurance mutual holding company established under chapter 175 or under the equivalent law of another state shall pay, on account of each taxable year, only the excise provided in clause (2) of subsection (a) or subsection (b), whichever is greater.

Without limitation, the excise levied in this section is due and payable on any 1 or all of the following alternative incidents:-

(1) The authority or qualification to carry on or do business in this state or the actual doing of business within the commonwealth. The term “doing business” as used herein shall mean and include each and every act, power, right, privilege, or immunity exercised or enjoyed in the commonwealth, as an incident to or by virtue of the powers and privileges acquired by the nature of those organizations, as well as, the buying, selling or procuring of services or property.

(2) The exercising or continuance of a business corporation’s charter or other means of legal authority within the commonwealth.

(3) The owning or using any part or all of its capital, plant or other property in the commonwealth.

It is the purpose of this section to require the payment of this excise to the commonwealth by a business corporation for the enjoyment under the protection of the laws of the commonwealth, of the powers, rights, privileges and immunities derived by reason of its existence and operation.

In the case of a business corporation whose taxable year is a period of less than 12 calendar months, the portion of the amount determined under clause (1) of subsection (a) shall be multiplied by a fraction whose numerator is the number of months included in the taxable year and whose denominator is 12.

(a) An amount equal to the sum of:-

(1) \$2.60 per 1,000 upon the value of: (i) its tangible property as determined to be taxable under paragraph 7 of section 30 if a tangible property corporation; or (ii) its net worth as determined to be taxable under paragraph 8 of section 30 if an intangible property corporation; and

(2)(i) For tax years beginning before January 1, 2010, 9.5 per cent of its net income determined to be taxable in accordance with this chapter; (ii) for tax years beginning on or after January 1, 2010, but before January 1, 2011, 8.75 per cent of its net income determined to be taxable in accordance with this chapter; (iii) for tax years beginning on or after January 1, 2011, but before January 1, 2012, 8.25 per cent of its net income determined to be taxable in accordance with this chapter; or (iv) for tax years beginning on or after January 1, 2012, 8.0 per cent of its net income determined to be taxable in accordance with this chapter.

(b) \$456.

A business corporation shall not be subject to the income measure of tax under clause (2) of subsection (a) if it is engaged in the business of selling tangible personal property and taxation of that business corporation under this chapter is precluded by the constitution or laws of the United States, or would be so precluded except for the fact that the business corporation stored tangible personal property in a licensed public storage warehouse, but no portion of any warehouse which is owned or leased by a consignor or consignee of the tangible personal property shall be considered a licensed public warehouse. A business corporation exempt from the income measure of the excise under this paragraph pursuant to



federal Public Law 86-272 shall be subject to the excise under clause (1) of subsection (a) or subsection (b), whichever is greater.

**SECTION 85.** Said chapter 63 is hereby further amended by striking out section 42B, as so appearing, and inserting in place thereof the following section:-

Section 42B. (a) Every business corporation subject to taxation under section 39 that has a usual place of business in the commonwealth, and is engaged in manufacturing in the commonwealth, or engaged in the commonwealth in research and development shall, for the purposes of this chapter, be considered to be a manufacturing corporation or a research and development corporation. Every manufacturing corporation shall be taxed in the same manner and shall have the same duties under this chapter and chapter 62C as other business corporations subject to taxation under section 39, except insofar as the determination of the excise under this chapter may be affected by reason of the exemption from local taxation of the machinery of a manufacturing corporation.

(b) A research and development corporation for the purposes of this section is a business corporation subject to tax under section 39 whose principal activity herein is research and development and which, during the taxable year, derives more than  $\frac{2}{3}$  of its receipts attributable to the commonwealth from the activity or incurs more than  $\frac{2}{3}$  of its expenditures attributable to the commonwealth allocable to the activity, but a corporation that qualifies as a research and development corporation only by reason of its expenditures shall not be entitled to the credit provided in section 31A of chapter 63 by virtue of its qualification as a research and development corporation. A corporation that is engaged in research and development and that conducts manufacturing activities shall exclude expenditures related to manufacturing from total expenditures for the purpose of assessing whether  $\frac{2}{3}$  of expenditures are allocable to research and development, whether or not the manufacturing activities of the corporation are substantial. Receipts from research and development shall include receipts from the provision of research and development services and from royalties or fees derived from the licensing of patents, know-how or other technology developed from research and development. For purposes of this section, research and development is experimental or laboratory activity having as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products; and does not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literacy, historical or similar projects. Nothing in this section shall be construed to provide for an exemption from local taxation of the machinery of a corporation considered to be a research and development corporation which is not considered to be a manufacturing corporation.

(c) 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 86.** Section 52 of said chapter 63, as so appearing, is hereby amended by striking out the first 4 sentences and inserting in place thereof the following 2 sentences:- If any of the provisions of this chapter imposing an excise on business corporations as defined in subsection (1) of section 30 are declared unconstitutional or inoperative by a final judgment, order or decree of the supreme court of the United States or of the supreme judicial court of the commonwealth, the portion of those provisions that was found to be unconstitutional or inoperative shall be null and void and shall become inapplicable to those corporations. In this event, the provisions of law, whether under this chapter or chapter 62, that (a) were applicable to those business corporations immediately before the enactment of the provision found to be unconstitutional or inoperative and (b) became inoperative or inapplicable in connection with the enactment of the provision found to be unconstitutional or inoperative, shall thereupon be revived and become operative and applicable in respect to those business corporations and shall be continued in full force and effect from the first day of January preceding by 6 years the first day of January of the calendar year in which the final judgment, order or decree is entered, to the same extent as if the provision found to be unconstitutional or inoperative had not been enacted.

**SECTION 87.** Said section 52 of said chapter 63, as so appearing, is hereby further amended by striking out the last 3 sentences and inserting in place thereof the following 3 sentences:- Excises declared invalid by reason of the foregoing premises, which were assessed on or after the date when predecessor laws are revived, made operative or applicable or continued in force as provided in this section, shall, to the extent that those excises have been paid and are unrefunded, be credited against the taxes assessed for the same period under the laws revived and again made operative, applicable and continued in force, but if this credit exceeds the taxes due, the excess shall be refunded upon warrant of the commissioner to the state treasurer. There shall be no further or other recovery of the amounts thus credited or refunded. If any provision of this chapter other than the provisions imposing an excise shall be declared unconstitutional or inoperative, the remaining provisions shall not be affected.

**SECTION 88.** Subsection (1) of section 52A of said chapter 63, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) "Utility corporation" means every business corporation that is (i) an electric company and gas company subject to chapter 164; (ii) a water company and aqueduct company subject to chapter 165; (iii) a telephone and telegraph company subject to chapter 166; (iv) a railroad and railway company subject to chapter 160; and every business corporation qualified under section 131A of said chapter 160 to acquire, own and operate terminal facilities for steam, electric or other types of railroad; (v) a street railway subject to chapter 161; (vi) an electric railroad subject to chapter 162; (vii) a trackless trolley company subject to chapter 163; (viii) a pipe line company engaged in the transportation or sale of natural gas within the Commonwealth; and (ix) every foreign corporation which is not subject to the above chapters but which does an electric, gas, water, aqueduct, telephone, telegraph, railroad, railway, street

railway, electric railroad, trackless trolley or bus business within the Commonwealth and has, before January 1, 1952, been subject to taxation under sections 53 to 60, inclusive.

**SECTION 89.** Said chapter 63 is hereby further amended by inserting after section 68A the following section:-

Section 68C. In general, a business corporation as defined in section 30 is subject to an excise under section 39, as provided in that section, and as modified by section 32D in the case of S corporations and by section 38Y in the case of entities qualifying under section 501 of the Code. Notwithstanding this general rule or any other provision of this chapter, the excise under section 39 shall not apply in the case of a business corporation that is:-

- (1) a financial institution, as defined in section 1, that is subject to excise under section 2 or 2B;
- (2) a security corporation as defined in section 38B and subject to excise under that section;
- (3) a utility corporation as defined in section 52A and subject to excise under that section;
- (4) an insurance company subject to excise under sections 20 to 29E, inclusive;
- (5) an urban redevelopment corporation subject to excise under section 10 of chapter 121A;
- (6) a corporation described in section 10 or section 18 of chapter 157;
- (7) a corporation described in section 1 of chapter 171;
- (8) a corporation or other entity that qualifies as a regulated investment company under section 851 of the Code; or
- (9) a business corporation otherwise expressly exempted from the excise under this chapter by any other general law.

**SECTION 90.** Chapter 63A of the General Laws is hereby amended by striking out section 2, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 2. Against every taxpayer there shall be levied, assessed and collected an excise at the rate of 0.57 per cent of such taxpayer's gross receipts.

**SECTION 91.** Section 10 of chapter 63B of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word "domestic".

**SECTION 92.** Section 18 of chapter 546 of the acts of 1969 is hereby repealed.

**SECTION 93.** Section 21 of said chapter 546 is hereby repealed.

**SECTION 94.** Chapter 63 of the acts of 2007 is hereby amended by striking out the section 13 and inserting in place thereof the following section:-

Section 13. Notwithstanding any general or special law to the contrary, the commissioner of revenue shall annually, not later than December 31, report in writing to the house and senate committees on ways and means on the status of the film tax credit established pursuant to section 6 of chapter 62, inserted by section 2 of chapter 158 of the acts of 2005, section 38X of chapter 63 and section 6 of chapter 64H of the General Laws.



The report shall include, but not be limited to, the motion picture production activity generated by the tax credits and the net revenue impact of the tax credits.

**SECTION 95.** (1) Notwithstanding any general or special law to the contrary, if the enactment of combined reporting requirements for unitary businesses under section 48 of this act results in an increase to a combined group's net deferred tax liability, the combined group shall be entitled to a deduction, as and to the extent determined in this section. For purposes of this section, "net deferred tax liability" shall mean the net increase, if any, in deferred tax liabilities minus the net increase, if any, in deferred tax assets of the combined group, as computed in accordance with generally accepted accounting principles, that would otherwise result from the imposition of the provisions of this act described in the pertinent provisions of paragraph (2) of this section. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with generally accepted accounting principles, as of the effective date of this act, shall be eligible for this deduction.

(2) For the 7-year period beginning with the combined group's taxable year that begins in 2012, a combined group shall be entitled to a deduction equal to one-seventh of the lesser of: (i) the Massachusetts tax basis modification, as determined in paragraph (3) of this section, and (ii) the amount necessary to offset the increase in net deferred tax liability, as computed in accordance with generally accepted accounting principles, that would result from the imposition of the combined reporting requirements under section 32B of chapter 63 of the General Laws but for the deduction provided under this section; provided, however, that notwithstanding the foregoing, the amount of the deduction shall in no case exceed the amount necessary to offset any increase in net deferred tax liability, as computed in accordance with generally accepted accounting principles, that would result from the imposition of all of the provisions of this act but for the deduction provided under this section.

(3) For purposes of this section, Massachusetts tax basis modification shall mean the aggregate adjusted book basis of the combined group's non-taxable members' eligible assets less the aggregate adjusted tax basis of the combined group's non-taxable members' eligible assets. Eligible assets shall mean, and be limited to, those tangible or intangible assets that are subject to depreciation, amortization, or other cost recovery allowable under chapter 63 of the General Laws and placed in service before the enactment date of this act. Aggregate adjusted book basis shall mean the total of carrying amounts for eligible assets as reported on the combined group's books of accounts, as determined in accordance with generally accepted accounting principles. Aggregate adjusted tax basis shall mean the total of remaining amounts, not yet depreciated, amortized or recovered, attributable to eligible assets that would have been available to deduct from future taxable income under chapter 63 of the General Laws, determined in accordance with the Internal Revenue Code, as modified by the General Laws, before the effective date of this act. Non-taxable member shall have the meaning provided in part (1) of subsection (d) of section 32B of chapter 63 of the General Laws.

(4) For purposes of this section, gain or loss on the disposition or abandonment of any eligible asset shall be computed using the adjusted tax basis of such asset, as determined under the Internal Revenue Code as modified by the General Laws before the effective date of this section, and the deduction provided by this section shall continue thereafter without adjustment.

(5) Any taxpayer intending to claim a deduction under this section shall file a statement with the commissioner on or before July 1, 2009 specifying the total amount of the deduction which the taxpayer claims. The statement shall be made on such form and in such manner as prescribed by the commissioner and shall contain such information or calculations as the commissioner may specify. No deduction shall be allowed under this section for any taxable year except to the extent claimed in the manner prescribed on or before July 1, 2009. This paragraph does not limit the authority of the commissioner under chapter 62C to review or redetermine the proper amount of any deduction claimed, whether on the statement required under this paragraph or on a tax return for any taxable year. The commissioner shall report the sum of the deductions claimed by all taxpayers under this section to the chairs of the joint committee on revenue and the chairs of the house and senate committees on ways and means no later than October 1, 2009.

**SECTION 96.** For the purposes of modifying the tax treatment of corporate trusts to create general conformity with federal classification rules and insuring that any tax-free earnings and profits accumulated by an entity formerly treated as a corporate trust shall be subject to tax under chapter 62 or chapter 63 of the General Laws, the commissioner of revenue may adopt reasonable rules, by regulation or otherwise, to determine the methods by which previously untaxed amounts shall be taxed to the entity, its successor, or its direct or indirect owners, partners or beneficiaries. The commissioner may also determine reasonable transition rules for entities, including but not limited to corporate trusts and qualified subchapter S subsidiaries, and the successors, direct or indirect owners, partners or beneficiaries of those entities, whose tax classification shall be altered by this act. These transition rules may include provisions for nonrecognition of gain or loss in the event of a conversion of an entity's Massachusetts tax status resulting from this act, with corresponding adjustments to basis or other tax attributes if and as determined by the commissioner to be appropriate.

**SECTION 97.** There shall be a special municipal relief commission to investigate and study the feasibility of innovative local revenue-generating measures in an effort to provide revenue relief to municipalities. The study shall include, but not be limited to, the expansion of the meals tax, the extension of the rooms tax to other transient accommodations not currently covered under the rooms tax, and other methods of enhancing revenues or containing expenses. The commission shall consist of the senate and house chairs of the joint committee on municipalities and regional government, the chairs of the senate and house committees on ways and means, the senate and house chairs of the joint committee on revenue, the minority leader of the senate or his designee, the minority leader of the house of representatives or his designee, 3 senate members to be appointed by the president of the



senate, and 3 house members to be appointed by the speaker of the house of representatives. The senate president and the speaker of the house shall each designate one member as co-chair of the commission. The commission shall report its findings to the joint committee on revenue, the joint committee on municipalities and regional government, and the senate and house committee on ways and means not later than December 15, 2008.

**SECTION 98.** Notwithstanding any general or special law or rule or regulation to the contrary, the department of revenue shall prepare a feasibility study, together with a draft of legislation amending chapters 64H and 64I of the General Laws, and such other changes in the General Laws as may be necessary to bring the commonwealth into full compliance with the Streamlined Sales and Use Tax Agreement in furtherance of section 82 of chapter 4 of the acts of 2003. The department shall file its report, together with any recommendations for legislation, with the joint committee on revenue and the house and senate committees on ways and means not later than December 1, 2008.

**SECTION 99.** Notwithstanding any general or special law or rule or regulation to the contrary, the department of housing and economic development, after consultation with the department of revenue and the department of business and technology, shall report by March 15, 2012, and every 3 years thereafter, on the impacts of this act on employment in the commonwealth. Said report shall be submitted to the clerks of the senate and the house of representatives and the chairs of the senate and house committees on ways and means.

**SECTION 100.** There shall be a special commission to review the corporate tax laws of the commonwealth. The investigation shall include, but not be limited to, the modernization and simplification of the current business tax laws, as well as rate structure, reporting mechanisms of corporations, and the use and effectiveness of the single-sales tax formula, including such formula's impact on job growth, business expansion and state tax revenues and the overall contribution of the formulas to the economic climate in the commonwealth, and a recommendation on retaining, expanding or terminating the use of the single-sales tax formula or adopting a new apportionment formula or formulas. The commission shall consist of the chairs of the senate and house committees on ways and means or their designees, who shall serve as co-chairs, the senate and house chairs of the joint committee on revenue, or their designees, 2 house members appointed by the speaker, 2 house members appointed by the house minority leader, 2 senate members appointed by the senate president and 2 senate members appointed by the senate minority leader. The commission shall collect and evaluate data, and shall file a report of the results of its investigation with the clerks of the senate and the house of representatives on or before March 31, 2009. The report shall include recommendations and a draft of any legislation necessary to address the revision of the corporate tax laws of the commonwealth.

**SECTION 101.** Sections 2 to 93, inclusive, shall be effective for tax years beginning on or after January 1, 2009.

**SECTION 102.** Section 1 and sections 94 to 100, inclusive, shall take effect upon enactment.

Approved July 3, 2008



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**Chapter 174. AN ACT AUTHORIZING THE CITY OF BROCKTON TO  
CONVEY CERTAIN PARK LAND TO THE BROCKTON HOUSING  
AUTHORITY.**

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

**SECTION 1.** The city of Brockton, acting by and through its mayor and city council, may convey 2 contiguous parcels of vacant land located in the city to the Brockton Housing Authority for the construction of affordable housing. The consideration to be paid for each parcel shall be \$10,000. The first parcel of land is shown as plots 2 and 2-2 Sheppard street on the city of Brockton assessor's map 86 and contains 9,451 square feet, more or less. The second parcel of land is shown as plot 48-2 Tribou street on the city of Brockton assessor's map 86 and contains 6,616 square feet, more or less. Both parcels were taken by the city of Brockton from Carl E. Forsberg and Charles E. Johnson for park purposes on September 13, 1976, and the taking recorded with the Plymouth county registry of deeds in book 4208, page 172.

**SECTION 2.** The Brockton Housing Authority shall assume the costs of all appraisals, studies, surveys and other expenses related to the conveyance of the city's land referenced in section 1.

**SECTION 3.** As a condition of the conveyance authorized in sections 1 and 2, the city of Brockton shall transfer a parcel of land under the care, custody, management and control of the mayor and city council and dedicated for general municipal purposes to the parks department or the conservation commission. The parcel shall be dedicated for park or conservation purposes. If no suitable parcel can be transferred for park or conservation purposes, the city shall acquire a parcel of land or a conservation easement, as defined in section 31 of chapter 184 of the General Laws, and shall dedicate the land or easement, which shall fall under the jurisdiction of the parks department or the conservation commission, to park or conservation purposes. The parcel dedicated pursuant to this section shall be of equal or greater size and value for park or conservation purposes to the parcels described in section 1, as determined by the parks department or the conservation commission.

**SECTION 4.** If the land conveyed pursuant to section 1 ceases to be used for the purposes described in section 1, the land shall revert back to the city of Brockton for conservation or public park purposes.

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

Approved July 8, 2008

**Chapter 175. AN ACT AUTHORIZING THE CITY OF HAVERHILL TO BORROW  
FUNDS FOR THE PURPOSE OF FINANCING THE PURCHASE OF  
SCHOOL DEPARTMENT TEXT BOOKS.**

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

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## Chap. 175

**SECTION 1.** Notwithstanding section 4 of chapter 387 of the acts of 2000 or any other general or special law to the contrary, rule or regulation to the contrary, the mayor of the city of Haverhill, with the approval of the city council, is hereby authorized under chapter 44 of the General Laws or any other enabling authority, to borrow the amount of \$327,675 to finance the purchase of school department text books.

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

Approved July 8, 2008

## Chapter 176. AN ACT PROTECTING CHILDREN IN THE CARE OF THE COMMONWEALTH.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith children in the care of 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 3 of the General Laws is hereby amended by adding the following section:-

Section 69. (a) There shall be a permanent commission on the status of grandparents raising grandchildren which shall consist of 11 persons as follows: 3 persons appointed by the secretary of elder affairs, 1 of whom shall be from the secretary's office; 1 person appointed by the commissioner of children and families, who shall be from the department; 2 persons appointed by the governor; 1 person appointed by the speaker of the house of representatives; 1 person appointed by the house minority leader; 1 person appointed by the president of the senate; 1 person appointed by the senate minority leader; and 1 person appointed by the attorney general. Members of the commission shall be citizens of the commonwealth who have demonstrated a commitment to the rearing of grandchildren by grandparents.

(b) Members shall serve terms of 2 years. Vacancies in the membership of the commission shall be filled by the original appointing authority for the balance of the unexpired term.

(c) The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it deems necessary.

(d) The members of the commission shall receive no compensation for their services, but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties.

(e) The commission shall be a resource to the commonwealth on issues affecting grandparents raising grandchildren in the commonwealth. In furtherance of that responsibility

ity, the commission shall: (1) foster unity among grandparents raising grandchildren communities and organizations in the commonwealth by promoting cooperation and sharing of information and encouraging collaboration and joint activities; (2) serve as a liaison between government and private interest groups with regard to matters of unique interest and concern to grandparents raising grandchildren in the commonwealth; (3) assess programs and practices in all state agencies as they affect grandparents raising grandchildren, as the commission deems necessary and appropriate; (4) advise executive and legislative bodies of the potential effect of proposed legislation on grandparents raising grandchildren, as the commission deems necessary and appropriate; (5) investigate the merits of the establishment of a state agency dedicated to grandparents issues and determine how such agency would be set up; and (6) identify issues that are faced by relatives, other than parents, who are raising children.

(f) The powers of the commission shall include, but not be limited to, the following: (1) to use such voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered and required, including provision of meeting places and refreshments; (2) to hold regular, public meetings and to hold fact-finding hearings and other public events as the commission deems necessary; (3) to direct a staff, in this section to be called commission staff, to perform its duties; (4) to establish and maintain such offices as the commission deems necessary, subject to appropriation; (5) to enact by-laws for its own governance but not inconsistent with any general or special law; and (6) to recommend policies and make recommendations to agencies and officers of the commonwealth and local subdivisions of government to effectuate the purposes of this commission.

(g) The commission may accept and solicit funds, including any gifts, donations, grants or bequests, or any federal funds for any of the purposes of this section. Such funds shall be deposited into a separate account with the state treasurer, received by said treasurer on behalf of the commonwealth, and expended by the commission in accordance with law.

(h) Not later than December 31 of each year, the commission shall report its findings and activities of the preceding year, as well as any policy recommendations, to the governor, the clerks of the senate and the house and the joint committee on children, families and persons with disabilities.

**SECTION 2.** Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as amended by section 1 of chapter 109 of the acts of 2007, is hereby further amended by adding the following subclause:-

(r) Information and records acquired under chapter 18C by the office of the child advocate.

**SECTION 3.** Section 17 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "board", in line 21, the following words:- , the office of the child advocate.

**SECTION 4.** Section 81 of said chapter 6, as so appearing, is hereby amended by striking out, in line 4, the words "social services" and inserting in place thereof the following



words:- children and families.

**SECTION 5.** Section 105 of said chapter 6, as so appearing, is hereby amended by striking out, in line 14, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 6.** Section 116 of said chapter 6, as so appearing, is hereby amended by striking out, in line 44, the figure “116C” and inserting in place thereof the following figure:— 116D.

**SECTION 7.** Said chapter 6 is hereby further amended by inserting after section 116C the following section:—

Section 116D. The municipal police training committee shall provide instruction, under section 96B of chapter 41, on the policies and procedures developed under clause (9) of section 18¾ of chapter 6A for the identification and immediate protection, care and custody of minors whose parents or guardians are arrested or placed in custody by police officers. The instruction shall be provided in the student officers’ course of study, in-service officers training, courses of supervisory training, and dispatcher and communication officer training.

**SECTION 8.** Section 172B of said chapter 6, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 3 and 8, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 9.** Section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in line 112, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 10.** Section 189 of said chapter 6, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 11.** Said chapter 6 is hereby further amended by striking out section 202, as so appearing, and inserting in place thereof the following section:-

Section 202. There is hereby established a child abuse prevention board, in this section and in section 203 referred to as the board, which shall consist of between 25 and 50 members, including:—

(a) the following 10 ex-officio members: the secretary of health and human services, the secretary of housing and economic development, the commissioner of early education and care, the commissioner of children and families, the commissioner of mental health, the commissioner of youth services, the commissioner of elementary and secondary education, the commissioner of public health, the commissioner of transitional assistance, and the child advocate, or their designees;

(b) the following 12 persons from the private sector appointed by the governor from recommendations by the board: 1 parent, 1 pediatrician, 1 child psychiatrist, 1 early childhood education specialist, 1 mental health specialist in child abuse, 1 district attorney, 1 teacher, 1 judge, 1 member of the Massachusetts bar, 1 criminal justice professional, 1 social

worker from a private child welfare agency, and 1 representative of a private charitable foundation; and

(c) between 3 and 28 additional members appointed by the governor from recommendations by the board. These individuals shall be appointed based upon their knowledge of and interest in child abuse prevention. The governor shall seek to provide diverse geographical representation, with particular attention given to appointing members who reflect the ethnic and racial diversity of the commonwealth's children, youth and families, and shall assure that each of the commonwealth's 6 human service regions, established by the executive office of health and human services, is represented by 1 of the appointments.

Each appointed member of the board shall serve for a term of 3 years. A vacancy in an unexpired term shall be filled in the same manner as an original appointment. Any member shall be eligible for reappointment.

The governor shall designate 1 of the appointed members of the board as chair. The board may elect other officers and committees as it deems appropriate.

The board shall employ an executive director, assistant executive director, secretary and any other staff that it deems necessary in order to carry out its duties and responsibilities. Expenditures for salaries and for other administrative functions shall be approved by the board within the limitations of section 50 of chapter 10.

The executive director shall have at least 2 years of direct service experience in child welfare or child clinical work and 2 years of experience in human service administration or policy making and shall have a master's degree in a related field.

The executive director shall be selected from applicants who have been screened and recommended by a 5-member subcommittee of the board, consisting of the chair, the commissioner of children and families, the commissioner of early education and care and 2 appointed members. Final selection of an executive director shall require approval by majority vote of the entire board and approval by the governor. The executive director shall be accountable to the board at large.

Any member of the board or the executive director may be removed by the governor for willful misconduct, neglect of duty, inability to exercise the powers of the board or perform the duties of the board, or for improprieties under law.

Notwithstanding any general or special law to the contrary, the office of children, youth and family services within the executive office of health and human services shall facilitate the implementation of this section, section 203 and the Children's Trust Fund, established by section 50 of chapter 10, but the office shall not exercise any supervision or control of the board.

**SECTION 12.** The second paragraph of section 203 of said chapter 6, as so appearing, is hereby amended by striking out clause (10) and inserting in place thereof the following clause:-

(10) to serve as an advocate, subject to appropriation, and provide an articulate focus

for the needs of children and disseminate information to the public regarding children's services and to work in collaboration with the office of the child advocate, the department of early education and care, the department of public health, the department of children and families, the department of elementary and secondary education and any other state agency which serves the needs of children, to promote the development of programs and services for all children, emphasizing programs for children with special needs.

**SECTION 13.** Said chapter 6 is hereby further amended by adding the following section:-

Section 215. There shall be an interagency child welfare task force. The secretary of health and human services shall serve as its chair. The member agencies shall include the department of children and families, the department of youth services, the department of transitional assistance, the department of mental health, the department of mental retardation, the department of public health, the department of elementary and secondary education and the department of early education and care.

The task force shall establish interagency goals each year to coordinate and streamline services to children and families and shall examine, among other issues: interagency collaboration to increase medical and mental health consultation; the availability of health and behavioral health services to children and families; collaboration with law enforcement as it relates to children and families involved with the criminal justice system; the availability of supportive day care for children in the care of the department of children and families; domestic violence awareness programs; children awaiting discharge from psychiatric inpatient units; and interagency training initiatives for staff, communities and providers.

**SECTION 14.** Section 16 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 26, the words "social services" and inserting in place thereof the following words:- children and families.

**SECTION 15.** Said section 16 of said chapter 6A, as so appearing, is hereby further amended by adding the following paragraph:-

The secretary, in consultation with the interagency child welfare task force established by section 215 of chapter 6, the commissioner of children and families and the child advocate, shall assess the commonwealth's long-term, system-wide needs for the prevention and detection of child abuse and neglect and shall coordinate and integrate responses across the agencies within the executive office. The secretary shall identify existing and potential resources, structural strengths and weaknesses, overlapping or conflicting efforts and opportunities for coordinated responses to child welfare issues. The secretary shall facilitate information sharing and policy synchronization among federal, state and local entities.

**SECTION 16.** Section 18¾ of said chapter 6A, as so appearing, is hereby amended by adding the following clause:—

(9) to develop statewide policies and procedures, including a uniform protocol, for state police and municipal police officers to report to the secretary on the identification of



and immediate protection, care and custody of minors whose parents or guardians are arrested or placed in custody by police officers. The policies and procedures shall be developed in consultation with the department of children and families, the department of state police, municipal police departments and the Massachusetts Chiefs of Police Association Incorporated. The secretary shall periodically analyze this information and report the analysis to the department of children and families and appropriate state or municipal police departments.

**SECTION 17.** Section 17 of chapter 11 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 16, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 18.** Section 20D of chapter 12 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The executive director shall annually report on the status of child abuse and neglect cases that have been referred for criminal prosecution, including the number prosecuted, the results of those prosecutions, the principal reason for decisions not to prosecute, and what resources would have assisted in those investigations and prosecutions. The report shall be filed with the clerks of the senate and the house, the senate and the house committees on ways and means, the joint committee on children, families and persons with disabilities, the joint committee on the judiciary, the child advocate, and the governor.

**SECTION 19.** Section 32 of said chapter 12, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 20.** Section 1G of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in line 54, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 21.** Section 19 of chapter 15A of the General Laws, as so appearing, is hereby amended by inserting after the word “tuition”, in line 1, the words:— and fee.

**SECTION 22.** Said section 19 of said chapter 15A, as so appearing, is hereby further amended by striking out the eighth paragraph and inserting in place thereof the following 2 paragraphs:—

The program shall provide full tuition and fee waivers for any state-supported course offered by an institution at a public college or university, excluding graduate courses and courses in the MD program at the University of Massachusetts Medical Center, and including courses toward an undergraduate degree program, certificate program, short-term certificate program and noncredit courses at each community college, state college and undergraduate campus of the University of Massachusetts for students who are not over the age of 24 and who, while in the custody of the department of children and families, were adopted by an eligible Massachusetts resident or commonwealth employee as determined by the department of children and families in conjunction with the human resources division. The commonwealth, not the institutions of public higher education, shall bear the cost of these

waivers after all reimbursements from the federal government have been exhausted.

The program shall provide tuition and fee waivers for any person who, upon reaching the age of 18, is in the custody of the department of children and families or is the subject of a legal guardianship sponsored by the department. No such person shall be required to remain in the care of the department beyond the age of 18 to qualify for these waivers. Persons who return to the care of the department after the age of 18 may qualify for these waivers. The commonwealth, not the institutions of public higher education, shall bear the cost of these waivers after all reimbursements from the federal government have been exhausted.

**SECTION 23.** Section 14 of chapter 17 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 24.** Section 28 of chapter 18 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 25.** Section 1 of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 26.** Said chapter 18B is hereby further amended by striking out sections 2 and 3, as so appearing, and inserting in place thereof the following 2 sections:-

Section 2. The department shall provide and administer a comprehensive child welfare program for children and families, including the following services:-

(1) casework or counseling, including services to families, foster families or individuals;

(2) protective services for children;

(3) legal services for families, children or individuals who are clients of the department;

(4) adoption services;

(5) information and referral services;

(6) foster family care for children and specialized foster family care for children with special needs;

(7) residential care for children with special needs who are not suited for foster family care or specialized foster family care;

(8) informal education and group activities;

(9) training in parenthood and home management for parents, foster parents and prospective parents;

(10) family services intended to prevent the need for foster care and services to children in foster care;

(11) temporary residential programs providing counseling and supportive assistance for families in transition and their children who, because of domestic violence, homelessness, or other situations, require temporary shelter and assistance;

- (12) camping services;
- (13) information and referral services;
- (14) services for families and individuals in emergency and transitional housing;
- (15) comprehensive youth development services;
- (16) access to and coordination of medical, dental and mental health services for children in foster care whose families are receiving services from other state agencies; and
- (17) child care placements for children whose families have an open case with the department.

Section 3. (a) The department shall provide comprehensive, area-based child welfare services. These services shall be organized by regions and areas consistent with those established by the secretary of health and human services under section 16 of chapter 6A.

(b) In order that the area-based services be adapted, organized and coordinated to meet the needs of certain population groups, the department shall provide programs for:

(1) families and children which shall, among other objectives, serve to assist, strengthen and encourage family life for the care and protection of children, assist and encourage the use by any family of all available resources to this end, and provide substitute care of children only when preventive services have failed and the family itself, or the resources needed and provided to the family, cannot insure the integrity of the family and the necessary care and protection to guarantee the rights of any child to sound health and normal physical, mental, spiritual and moral development; and

(2) other population groups which require special adaptation of the services provided because of special needs.

(c) The department shall:

(1) formulate the policies, procedures and rules necessary for the full and efficient implementation of programs authorized by the laws of the commonwealth and federal laws in the area of services for children and families;

(2) administer the services, funds and personnel necessary for these programs throughout the commonwealth;

(3) establish and enforce high standards of service and strive to elevate such standards;

(4) provide the range of services on a fair, just and equitable basis to all people in need of such services;

(5) collaborate with other departments of the commonwealth and with voluntary or private agencies or organizations to assure efficient and high-quality social and educational services for persons who are unable, for social or economic reasons, to provide such services for themselves;

(6) study the social and economic problems in the commonwealth and make recommendations to the appropriate branches and agencies of government, including the office of the child advocate, for broadening and improving the scope and quality of child welfare services; and



(7) recruit and retain foster care and pre-adoption parents sufficient for the needs of children serviced by the department, including expanded efforts through education of the public.

**SECTION 27.** Section 6 of said chapter 18B, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:— children and families.

**SECTION 28.** Said section 6 of said chapter 18B, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- The position of commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30 and the commissioner shall devote full time to the duties of the office.

**SECTION 29.** Section 6A of said chapter 18B, as so appearing, is hereby amended by striking out, in line 1, the words “of social services”.

**SECTION 30.** Said section 6A of said chapter 18B, as so appearing, is hereby further amended by striking out, in line 42, the word “thirty A” and inserting in place thereof the following figure:- 30A.

**SECTION 31.** Said section 6A of said chapter 18B, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:—

The director of the unit shall submit an annual report to the governor, the child advocate and the joint committee on children, families and persons with disabilities on the performance of the unit. The report shall contain: an analysis and evaluation of the foster care review system and recommendations, if any, for its improvement; the total number of children in the care of the department or its agents during the previous fiscal year; the number of children who were in its care for more than 6 months; the number of reviews conducted; the number of children returned to their parents or guardian; the number of children for whom guardians, other than the department or its agent, were appointed; the number of children released for adoption; and the number of children adopted.

**SECTION 32.** Said chapter 18B is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. (a) The commissioner shall establish reasonable caseload rates and shall report these caseload rates to the general court in the budget estimates of the department.

(b) The commissioner shall develop and implement a management information system that shall contain fiscal and personnel data, client data, and program data necessary for the ongoing administration or effective service delivery. The information system shall include, but not be limited to, a service plan for each client, with provisions for periodic review thereof. The commissioner shall adopt such rules and regulations as are deemed necessary to ensure the confidentiality of client data collected by the department.

(c) The commissioner shall develop and implement a comprehensive monitoring and

evaluation system for all services under the control of the department and shall collect the necessary program and fiscal data annually.

(d) The commissioner shall conduct an annual needs assessment for all services under the control of the department.

(e) The commissioner shall report to the general court and to the child advocate: (i) annually on all services, including program and client data and unit costs, and on residential care pursuant to section 23; (ii) semi-annually on high-risk children, racial disproportionality and disparity, and service procurement pursuant to section 24; and (iii) quarterly on multiple 51A reports pursuant to section 25.

(f) The commissioner shall develop and implement a plan for the orientation and training of area-based and other staff. The plan shall require all employees be issued photo identification to be used in the performance of their duties, including for display upon introduction.

(g) The commissioner shall coordinate the overall service planning of the department with planning under Title XX of the Social Security Act, 42 U.S.C. 1397 et seq.

(h) The commissioner shall be authorized to apply for and accept on behalf of the commonwealth federal, local or private grants, bequests, gifts or contributions.

(i) The commissioner, subject to chapter 30A, shall adopt rules and regulations necessary to carry out this chapter and chapter 119.

(j) The commissioner shall include in the budget estimates of the department funds for the development and implementation of the aforementioned management information system, monitoring and evaluation system, annual needs assessment, and staff training plan.

(k) The commissioner shall, subject to appropriation, enter into contracts with nonprofit organizations to provide services for families and individuals in emergency and transitional housing; provided, that the department, in entering into such contracts, shall provide \$3 for each dollar of donated funds which have been committed to such nonprofit organizations from any non-state source. For the purposes of this subsection, a non-state source may include private donations or monies from city, town or county governments but shall not include funds from other state agencies.

(l) Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter 118E including, but not limited to, identifying individuals eligible for such assistance under said chapter 118E, the commissioner shall assure that such activity or policy is reviewed by the director of Medicaid.

(m) Not more than 3 per cent of the department's annual budget shall be appropriated in a separate account and expended for the purposes of subsections (b), (c) and (d).

(n) Upon receipt of a completed review of multiple 51A reports required under subsection (r) of section 51B of chapter 119, the commissioner shall immediately notify: (i) the district attorney for the county in which the child resides and for the county in which the event giving rise to a report occurred, (ii) local law enforcement authorities in the city or town in which the child resides and in the city or town in which the event giving rise to a report occurred, and (iii) the office of the child advocate.

**SECTION 33.** Section 8 of said chapter 18B, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The position of deputy commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30.

**SECTION 34.** The second paragraph of section 9 of said chapter 18B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- The position of assistant commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30. Assistant commissioners shall devote full time to the duties of the office.

**SECTION 35.** Section 12 of said chapter 18B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The commissioner, with the advice of the area board, shall appoint an area director in each area, and, subject to appropriation, such other employees as the commissioner may deem necessary.

**SECTION 36.** Said section 12 of said chapter 18B, as so appearing, is hereby further amended by striking out the fifth and sixth paragraphs and inserting in place thereof the following 3 paragraphs:—

The area director shall also prepare and submit to the commissioner the proposed annual budget for the area for programs to be supported at the area level. The commissioner shall make such revisions as shall be necessary and shall include said area budgets as part of the departmental budget requests submitted annually under sections 27 and 28 of chapter 29. A copy of the area budget as included with said departmental requests shall be forwarded by the commissioner to each area director for the information of the area board.

The area director, subject to the overall supervision of the commissioner, shall supervise all employees within the area and shall be responsible for the administration of the area budget and the implementation of the area plan.

A social worker shall have a bachelor's degree at the time of appointment. A supervisory social worker shall have a master's degree in social work or a related field at the time of appointment.

**SECTION 37.** Said chapter 18B is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:—

Section 13. In each area established under section 3, there shall be a children and families area board, in this chapter called the area board, which shall be an agency of the commonwealth and shall serve in the department. The area board shall consist of 23 members, who shall be appointed by the commissioner for terms of 3 years.

No member shall be an employee of the department. Two-thirds of the members shall be persons other than employees of the commonwealth or its political subdivisions.

The commissioner shall seek to provide proper geographical representation in the membership of the board. Two-thirds of the members shall live within the area for which they are appointed, and the remaining members shall either live or work in the area. At least 1 member from each city and, if practicable, each town in the area shall be included.



At least 6 members shall be consumers of services provided by the department. Not more than 2 members shall be selected from nominations submitted by the president of the collective bargaining unit representing the social workers who work for the department in the area. Not more than 2 members shall be selected from private providers within the area. One member at the time of appointment shall be a member of the community mental health area board established under section 14 of chapter 19, 1 member at the time of appointment shall be a person knowledgeable in the field of mental retardation, 2 members at the time of their appointment shall be members of the local councils for children established under section 7 of chapter 28A, 2 members at the time of their appointment shall be members of the financial or business professions with special fiscal or budgetary skills, and 2 members shall at the time of their appointment be members of the community service area boards established under section 7 of chapter 18.

Upon the expiration of the term of any member, his successor shall be appointed, in like manner, for a term of 3 years. In the event of a vacancy, the commissioner may, in like manner, appoint a member who shall serve for the remainder of the unexpired term. Members shall serve without compensation and shall be sworn to the faithful performance of their duties. The area board shall suggest for consideration by the commissioner 1 or more names for each such expiring term or vacancy. No member shall be appointed for more than 3 consecutive 3-year terms.

**SECTION 38.** Section 14 of said chapter 18B, as so appearing, is hereby amended by striking out, in lines 7, 10 and 15, the word "thirteen" and inserting in place thereof, in each instance, the following figure:- 13.

**SECTION 39.** Section 15 of said chapter 18B, as so appearing, is hereby amended by inserting after the word "services", in lines 5 and 13, the following words:- for children and families.

**SECTION 40.** Section 16 of said chapter 18B, as so appearing, is hereby amended by inserting after the word "services", in line 5, the following words:- for children and families.

**SECTION 41.** Said section 16 of said chapter 18B, as so appearing, is hereby further amended by adding the following paragraph:-

The council shall work to facilitate the medical evaluation process and recruitment of physicians, dentists and mental health professionals to medically screen and evaluate children newly admitted to foster care. To accomplish this goal the council shall consult with pediatricians, family practice physicians or a nurse practitioners, dentists, psychiatrists, psychologists or licensed independent clinical social worker therapists, the family and probate court, the juvenile court, and the Massachusetts medical assistance program. The council shall report annually on or before December 31 to the commissioner any recommended changes to the department's regulations or policies that would facilitate the medical evaluation process and recruitment of necessary personnel.

**SECTION 42.** Said chapter 18B is hereby further amended by striking out section 17, as so appearing, and inserting in place thereof the following section:-

Section 17. The department may establish centers for children and families in any facility owned or rented by the commonwealth other than state schools, hospitals or prisons, in any area if space is available or suitable for the purpose and shall, if feasible, locate these centers in a facility utilized by an agency of the commonwealth providing human services. If suitable space is not available, the department may acquire adequate space for such centers by renting, leasing or other available means. Each area shall be responsible for the delivery of services within its area. The centers shall be of sufficient number and so located as to be readily accessible to the people throughout the commonwealth.

**SECTION 43.** Said chapter 18B is hereby further amended by striking out section 20, as so appearing, and inserting in place thereof the following section:—

Section 20. Notwithstanding section 22 of chapter 29 or any other law, funds made available by appropriation or otherwise for enabling the department to carry out the provisions of this chapter may be advanced to the department in such sums and subject to such rules and regulations as the comptroller may determine. The department shall make a monthly report to the comptroller of the amount of funds disbursed by the department subsequent to the previous monthly report and shall certify to the comptroller that such disbursements are substantiated by detailed records and vouchers retained in the custody of the department.

**SECTION 44.** Section 22 of said chapter 18B, as so appearing, is hereby amended by striking out, in lines 11 and 12 and 41 and 46, the words “public welfare” and inserting in place thereof, in each instance, the following words:— transitional assistance.

**SECTION 45.** Said chapter 18B is hereby further amended by adding the following 3 sections:—

Section 23. The commissioner shall report annually on September 1 on the number of children placed in residential care by region and the cost of care and treatment provided to those children. The information reported for each region shall include, but not be limited to: (i) the age and gender of the children; (ii) the reasons for placement; (iii) the intensity, frequency and type of services provided to each child; (iv) the length of each placement; and (v) the disposition of the child’s case at the end of the residential placement, including whether the child was returned to the child’s family or placed in other care within the community. The report shall also include the cost of residential placement by region and any other information necessary for the evaluation of the operation of state-funded residential homes. The report shall be filed with the clerks of the senate and the house, the senate and house committees on ways and means, the joint committee on children, families and persons with disabilities, the office of the child advocate, and the governor.

Section 24. The commissioner shall report semi-annually on: (i) the status of high-risk children and the department’s efforts to identify such children and address their needs for child protection; (ii) the status of racial disproportionality and disparity of the department’s client population and its efforts, including the use of culturally competent staffing, resources and practices, to reduce overrepresentation of children of color in the child

welfare system; (iii) the status of the department's procurement of services; and (iv) the status of children who, due to their age, are transitioning out of the child welfare system. The reports shall be filed with the clerks of the senate and the house, the senate and house committees on ways and means, the joint committee on children, families and persons with disabilities, the office of the child advocate, and the governor.

Section 25. In addition to the immediate notification required under subsection (n) of section 7, the commissioner shall report quarterly on the total number of cases of multiple 51A reports reviewed by the department under subsection (r) of section 51B of chapter 119, the types of those cases, and their resolutions. The report shall be filed with the governor, the clerks of the senate and the house, the joint committee on children, families and persons with disabilities, and the child advocate.

**SECTION 46.** The General Laws are hereby amended by inserting after chapter 18B the following chapter:-

## **CHAPTER 18C**

### **OFFICE OF THE CHILD ADVOCATE**

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

“Advisory board”, the child advocate advisory board established by section 4.

“Child advocate”, the child advocate appointed under section 3.

“Critical incident”, (a) a fatality, near fatality, or serious bodily injury of a child who is in the custody of or receiving services from the executive office of health and human services or 1 of its constituent agencies; or (b) circumstances which result in a reasonable belief that the executive office of health and human services or 1 of its constituent agencies failed in its duty to protect a child and, as a result, the child was at imminent risk of, or suffered, serious bodily injury.

“Department”, the department of children and families.

“Executive agency”, a state agency within the office of the governor that includes the executive office of education, the executive office of public safety and security, executive office of health and human services, the Massachusetts interagency council on homelessness and housing established by Executive Order No. 492 and the executive office of housing and economic development.

“Office”, the office of the child advocate.

“Serious bodily injury”, bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Section 2. There shall be an office of the child advocate which shall be independent of any supervision or control by any executive agency. The office shall:



(a) ensure that children involved with an executive agency, in particular, children served by the child welfare or juvenile justice systems, receive timely, safe and effective services;

(b) ensure that children placed in the care of the commonwealth or treated under the supervision of an executive agency in any public or private facility shall receive humane and dignified treatment at all times, with full respect for the child's personal dignity, right to privacy, and right to a free and appropriate education in accordance with state and federal law;

(c) examine, on a system-wide basis, the care and services that executive agencies provide children; and

(d) advise the public and those at the highest levels of state government about how the commonwealth may improve its services to and for children and their families.

Section 3. The office shall be under the direction of the child advocate, who shall devote full time to the duties of this office. The child advocate shall serve at the pleasure of the governor and report directly to the governor. The child advocate may, subject to appropriation, appoint such other personnel as he deems necessary for the efficient management of the office. The governor shall appoint the child advocate to a term coterminous with that of the governor, except that the child advocate shall continue to serve following the end of a governor's term until a successor is appointed.

The governor shall appoint the child advocate from among 3 nominees submitted by a nominating committee to recommend a child advocate. The nominating committee shall consist of: the secretary of health and human services; the commissioner of children and families; the commissioner of youth services; commissioner of mental health; the executive director of the child abuse prevention board; a pediatrician experienced in treating child abuse designated by the Massachusetts chapter of the American Academy of Pediatrics; a child psychiatrist designated by the Massachusetts Psychiatric Society; a child psychologist designated by the Massachusetts Psychological Association; a representative from the Massachusetts Association of Mental Health; a representative of an organization which advocates on behalf of children at risk of abuse designated by the Children's League of Massachusetts; a lawyer experienced in care and protection cases designated by the Massachusetts Bar Association; a social worker designated by the Massachusetts Chapter of the National Association of Social Workers; a person with experience in the juvenile justice system designated by the chief justice of the juvenile court department; and a representative of organized labor to be designated by the president of the collective bargaining unit that represents the social workers of the department.

A vacancy occurring in the position of child advocate shall be filled in the same manner, except that if the child advocate ceases to serve for any reason, the governor shall appoint an acting child advocate who shall serve until the appointment of a successor.

Section 4. There shall be a 25-member child advocate advisory board. The advisory board shall consist of the child advocate, who shall serve as chair, the secretary of health and

human services, the secretary of public safety and security, the secretary of education, the executive director of the criminal history systems board, the undersecretary of criminal justice from the executive office of public safety and security, the commissioner of early education and care, the commissioner of elementary and secondary education, the commissioner of mental health, the commissioner of mental retardation, the commissioner of public health, the commissioner of children and families, the commissioner of transitional assistance, the commissioner of youth services, the deputy commissioner of the child support enforcement division within the department of revenue, the president of the Massachusetts District Attorneys Association, the commissioner of probation, the chief counsel of the committee for public counsel services, the chief justice of the superior court department, the chief justice of the juvenile court department, the chief justice of the probate and family court department, the executive director of the child abuse prevention board, and 3 persons appointed by the governor.

Section 5. (a) An executive agency shall inform the child advocate when a critical incident has occurred. The child advocate may conduct an investigation of the critical incident or may review an executive agency's investigation of a critical incident. When the child advocate conducts his own investigation, he shall determine: (1) the factual circumstances surrounding the critical incident; (2) whether an agency's activities or services provided to a child and his family were adequate and appropriate and in accordance with agency policies and state and federal law; and (3) whether the agency's policies, regulations, training or delivery of services or state law can be improved.

(b) Before investigating any critical incident, the child advocate shall determine whether an executive or law enforcement agency is already conducting an investigation. If a law enforcement agency is conducting an investigation, the child advocate shall, when appropriate, defer to that agency or may conduct his own investigation. The child advocate shall coordinate efforts to minimize the impact on the child, family or employees of the agency involved, unless he determines such coordination would impede his investigation. If an executive agency is conducting an investigation, the child advocate may defer to that investigation or may conduct his own investigation. The child advocate may coordinate efforts to minimize the impact on the child, family or employees of the agency involved. In every instance, the child advocate shall notify the head of the relevant agency of his involvement before beginning any investigation.

(c) The child advocate shall receive complaints relative to the provision of services to children by an executive agency and shall review and monitor the complaints that reasonably cause him to believe that a child may be in need of assistance and to ensure that the complaint is resolved. If the complaint is not resolved by the relevant executive agency within a reasonable period of time in light of the circumstances, if the resolution is determined to be unsatisfactory to the child advocate, or if the complaint reasonably causes the child advocate to believe that a child may be in need of immediate assistance, he may conduct an investigation of the complaint.

(d) The child advocate shall receive complaints from children in the care of the commonwealth and assist such children in resolving problems and concerns associated with their placement, plans for life-long adult connections and independent living, and decisions regarding custody of persons aged between 18 and 22, including ensuring that relevant executive agencies have been alerted to the complaint and facilitating intra-agency cooperation, if appropriate. For the purposes of this section, the office shall develop procedures to ensure appropriate responses to the concerns of youth in foster care 24 hours a day, 7 days a week.

(e) The child advocate shall periodically review, report and make recommendations, as appropriate, with respect to system-wide improvements that may increase the effectiveness of the care and services provided to children and their families and suggested legislative and regulatory changes including, but not limited to, a review of the programs and procedures established by the department to provide and administer a comprehensive child welfare program under section 2 of chapter 18B.

(f) At the request of the governor, the child advocate shall perform oversight functions to ensure that agencies serving children are fulfilling their obligations in the most effective and efficient manner.

(g) The child advocate shall undertake activities designed to educate the public regarding the services of the office and of the mission of the executive agencies in providing services to children and families.

(h) The child advocate shall be authorized to apply for, and accept on behalf of the commonwealth, federal, local or private grants, bequests, gifts or contributions for the purpose of carrying out the functions of the office.

Section 6. The child advocate or his designee shall have access at any and all reasonable times to any facility, residence, program, or portion thereof, that is operated, licensed or funded by an executive agency, and to all relevant records, reports, materials and employees in order to better understand the needs of children in the custody of the commonwealth or who are receiving services from an executive agency. The child advocate shall be bound by any limitations on the use or release of information imposed by law upon the party furnishing such information, except as provided in subsection (e) of section 12.

Section 7. The child advocate may request the attendance and testimony of witnesses and the production of documents, papers, books, records, reports, reviews, recommendations, correspondence, data and other evidence that the child advocate reasonably believes is relevant. If a request is denied, the child advocate shall have the power to issue a subpoena for witnesses and the production of documents and any other data and evidence that the child advocate reasonably believes is relevant.

If any person to whom a subpoena is issued fails to appear or, having appeared, refuses to give testimony or fails to produce the evidence required, the child advocate may apply to the Suffolk county superior court to issue an order to compel the testimony and production of documents of any such witnesses. A failure to obey the order may be punished as contempt.



The district attorney may seek injunctive relief in Suffolk county superior court to defer a subpoena issued by the child advocate.

Section 8. No discriminatory or retaliatory action shall be taken against any person who communicates with or provides information to the office. Any person who knowingly or willfully discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees.

Section 9. The child advocate shall develop internal procedures appropriate for the effective performance of his duties.

The child advocate may, subject to chapter 30A, adopt, amend or repeal such rules and regulations as are deemed necessary to carry out the functions of the office.

Section 10. The child advocate shall report annually to the governor, the president of the senate, the speaker of the house, the senate and the house committees on ways and means, and the chairs of the joint committee on children, families and persons with disabilities on the activities of the office, including an analysis of activities undertaken to implement subsection (d) of section 5, recommendations for changes in agency procedures which would enable the commonwealth to better provide services to and for children and their families and priorities for implementation of those changes to services. The report shall be made public.

Section 11. (a) The child advocate, in consultation with the advisory board and the interagency child welfare task force established by section 215 of chapter 6, shall formulate a comprehensive plan, with periodic benchmarks and cost estimates, to recommend a coordinated, system-wide response to child abuse and neglect, including related mental health, substance abuse and domestic violence issues. The comprehensive plan shall look forward 5 years or more, shall be updated annually to plan for the ensuing 5-year period, shall assess previous efforts and, if appropriate, shall include legislative and regulatory recommendations, such as changes to the issues itemized in the comprehensive plan.

(b) The child advocate may seek advice broadly from individuals with expertise in child welfare in formulating the plan and consult with, social workers of the department, pediatricians, child psychiatrists, early childhood education and adolescent behavior specialists, parents of children who have received services from the commonwealth, and persons who, as children, were clients of the department.

(c) The comprehensive plan shall be filed annually with the governor, the clerks of the senate and the house, the senate and house committees on ways and means, and the joint committee on children, families and persons with disabilities.

(d) The comprehensive plan shall examine the status of and address the following issues:—

(1) racial disproportionality and disparity of the department's client population, including the effectiveness of reforms designed to address overrepresentation of children of color within that population;

(2) the needs of families whose children are truant, runaways, or whose conduct interferes with their parent's ability to adequately care for and protect them. The plan shall

propose a system of community-based programs to assist these children and families by providing services on a continuum of increasing intensity with the goal of keeping children out of the juvenile justice and child protection systems. The plan shall examine: (i) the existing complex system of services available from multiple public and private agencies; (ii) the differences in service delivery throughout the state; (iii) the need for immediate response to stabilize a family in crisis and to connect the family to services in their own community; and (iv) the collection and analysis of information needed to evaluate and identify gaps in service to such children and families throughout the commonwealth;

(3) mandated reporting, including: (i) the quality and quantity of training provided to mandated reporters; (ii) standards for training based on best practices for recognizing and reporting suspected child abuse and neglect; and (iii) the use of the following as forums for training mandated reporters: online programs, training offered by state agencies, and existing programs of professional training such as those required for initial licensure or certification and relicensure or recertification, continuing education programs or in-service training;

(4) screening of child abuse and neglect reports, including: (i) centralizing the reporting and screening processes; (ii) a single, 24-hour, toll-free telephone number for all oral reports, a single fax number or mailing address for all written reports and internet-based filing of reports; (iii) multiple reports filed about a particular child or family; (iv) a determination of when and under what conditions reports may have been inappropriately screened out and the impact of those decisions; and (v) direct, electronic access to the National Crime Information Center for criminal history records and warrants;

(5) child protection teams, which are multidisciplinary teams that provide specialized medical examinations of children who present signs of abuse or neglect and that include pediatricians or pediatric nurses and psychologists or social workers who have been trained to recognize child abuse and neglect, including statewide expansion to regional hospitals, all hospitals with emergency rooms and all pediatric care hospitals;

(6) the shortage of experts in the commonwealth who specialize in the prevention, diagnosis and treatment of abused or neglected children, with recommendations to train pediatricians and pediatric nurse practitioners to become clinical experts who are knowledgeable and competent in all areas of child abuse and neglect, including: the identification, assessment, and treatment of physical abuse, sexual abuse, neglect, emotional abuse and neglect and factitious illness by proxy; multi-disciplinary training with law enforcement, state and local agencies and child advocacy centers; collection of forensic evidence; court testimony; research; and child advocacy;

(7) family engagement model or other nationally recognized models to strengthen child welfare practice, including: (i) the evaluation of the model and its use of differential response and risk assessment tools to determine how effectively findings of abuse or neglect are made; (ii) the cost to implement the model state-wide; (iii) the combination of departmental functions such that an individual social worker investigates, assesses and provides ongoing case management, particularly as that combination impacts incidents requiring specialized investigatory skills; (iv) delays in the fair hearing process; and (v) time

limits allowed for screenings, investigations and assessments;

(8) social worker caseloads and teaming, including: (i) the effects of teaming on caseloads and of caseloads on teaming; (ii) the cost of state-wide adoption of various standard caseload ratios; (iii) a potential multi-year plan to reduce caseloads; and (iv) duties handled by social workers that may be more affordably and efficiently handled by other staff;

(9) law enforcement involvement, including: (i) how effectively the department and law enforcement collaborate and whether there is room for improvement or coordination of resources; (ii) protocols for mandatory reporting of certain abuse or neglect to local law enforcement and district attorneys and (iii) potential alignment with efforts to prevent or prosecute domestic violence and with the procedures used in the investigation of sexual abuse, such as the sexual abuse intervention network and the sexual assault nurse examiners program;

(10) schools of social work, including: (i) how effectively social work and related degree programs teach child welfare practice; (ii) greater cooperation between the department and higher education to study child welfare issues; (iii) the capacity of public and private schools to meet increased demand for social work and related degrees, including concentrations in child welfare; and (iv) a timeline for inclusion of child welfare concentrations in bachelor's and master's degree programs at public institutions of higher education;

(11) social worker qualifications, including the infrastructure needed to support a more qualified workforce, such as full implementation of proposed programs at the child welfare institute and the transferability of certificate coursework to degree-granting programs;

(12) confidentiality, including research of legal and ethical considerations to be addressed if information relative to cases of child abuse and neglect is shared between the office and other executive agencies;

(13) health service needs of the department's client population and health consultation needs of the department, including: (i) the need for physical and behavioral health services and consultation, including those related to mental health and substance abuse treatment ; (ii) coordination and consultation among executive agencies; (iii) proposed best-practice models for more effective client behavioral health services; and (iv) oversight and peer review of the safety and effectiveness of the use of psychotropic drugs by children involved with executive agencies;

(14) critiques of the department, including: (i) potential alignment of a internal or external audit unit with the department's continuous quality improvement and quality service review initiatives; and (ii) dissemination of the findings of these critiques to policy makers within and outside of the department;

(15) criminal offender record information reviews, including: (i) the use of these reviews in out-of-home, kinship and foster placements and (ii) areas for improved efficiency and equality;



(16) permanency planning for those who, due to their age, are transitioning out of the child welfare system to assist with health care, housing, higher education, long-term interpersonal connections and other needs for independent living;

(17) examine the frequency of transitions in the treatment plans and living placements of foster children;

(18) provide an analysis of the administrative and cost requirements and recommendations to create a personal needs and individual development account for each child in foster care over the age of 14;

(19) review the process of adopting children in foster care and recommend streamlined procedures to reduce the time required to complete the adoption process;

(20) the impact on child welfare efforts of the early and periodic screening, diagnostic and treatment services provision and reasonable promptness provision of the federal Medicaid law, 42 U.S.C. 1396a(a)(10)(A),-(a)(43), 1396d(r)(5),-(a)(4)(B), and 1396a(a)(8)(2005), respectively;

(21) oversight provided by MassHealth and its contractors of medical and behavioral health expenditures made on behalf of the department's client population;

(22) federal funding available for child welfare purposes and factors affecting that funding, including: (i) the Title IV-E saturation rate for foster children, (ii) the determination of AFDC status for the non-TANF population, and (iii) expedited judicial determinations made within the required time frames;

(23) an estimate of the expenditure necessary to implement an annual adjustment to the daily rate for maintenance payments to foster care, adoptive and guardianship families, to provide care so as to meet the rate recommended periodically by the United States Department of Agriculture; and

(24) the effectiveness of the state's child abuse laws as they relate to defining, prohibiting, preventing and reporting cases of emotional abuse of children, including recommendations to increase public and professional education and awareness of the symptoms and impact of emotional abuse.

Section 12. The following provisions apply to information and records obtained, reviewed or maintained by the child advocate:

(a) Notwithstanding chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, sections 51E and 51F of chapter 119, chapter 112, chapter 123, or sections 20B, 20J, or 20K of chapter 233 to the contrary, the disclosure of information to the office of the child advocate pursuant to this chapter shall not be prohibited. Any information considered to be confidential under the aforementioned sections shall be submitted for the child advocate's review upon the determination of the child advocate that the review of said information is necessary. The child advocate shall ensure that no information submitted for his review is disseminated to parties outside the office. Under no circumstances shall the child advocate or any employee of the office violate the confidentiality provisions set forth in the aforementioned statutes, except as authorized under subsection (e).

(b) Any and all information and records acquired by the child advocate in the exercise of the office's purpose and duties under this chapter shall be confidential and exempt from disclosure under chapter 66 and clause Twenty-sixth of section 7 of chapter 4.

(c) Information, documents and records of the child advocate and his office shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during the child advocate's investigation or maintained by the office of the child advocate.

(d) Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(e) The restrictions of this section shall not preclude the child advocate from sharing with the governor, the attorney general, a district attorney, a secretary, an agency commissioner or other agency personnel, or the chairs of the joint committee on children, families and persons with disabilities, the report of, or the results of, a critical incident investigation involving that agency. Any executive or legislative branch employees who receive or read such a document shall be bound by the confidentiality requirements of this section.

Section 13. No person employed by or contracted by or volunteering for the office shall be subject to suit directly, derivatively or by way of contribution or indemnification for any civil damages under the laws of the commonwealth resulting from any act or omission performed during or in connection with the discharge of his duties within the scope of his employment or appointment, unless such act or failure to act was committed with gross negligence, maliciously, or in bad faith.

**SECTION 47.** Subsection (a) of section 16 of chapter 19A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- In planning this system, the department shall require input from other protective service agencies and other agencies currently involved in the provision of social, health, legal, nutritional and other services to the elderly, as well as elderly advocacy organizations.

**SECTION 48.** Section 7 of chapter 22A of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "social services" and inserting in place thereof the following words:- children and families.

**SECTION 49.** Section 68 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- These special state police officers shall serve for 1 year, subject to removal by the colonel, and they shall have and exercise throughout the commonwealth the same powers as state police officers to serve warrants and other criminal processes for any criminal offense resulting from either a fraudulent claim for payment or service under any assistance program administered by the department of transitional assistance or any program administered by the department of children and families or a receipt of payment or services

by a person entitled thereto or for any violation of chapter 273 relative to the support of spouses and children for whom the department of transitional assistance is entitled to receive payment, or in whose behalf said department is giving aid. They shall not have the authority to arrest without a warrant.

**SECTION 50.** Section 10 of chapter 28A of the General Laws is hereby amended by striking out, in line 49, as so appearing, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 51.** Said section 10 of said chapter 28A is hereby further amended by striking out paragraph (f), as so appearing, and inserting in place thereof the following paragraph:-

(f) The office shall promptly investigate and evaluate any notice transmitted to the office by the department of children and families under subsection (l) of section 51B of chapter 119. The investigation and evaluation shall determine whether the facility being operated by a person subject to licensure under this section is being operated in compliance with this chapter and with the rules and regulations established under paragraph (c). If, during the course of the investigation or a licensing study conducted by the office, any agent or employee of the office receives or discovers information concerning the occurrence of child abuse or neglect, that agent or that employee shall make a report to the department of children and families under section 51A of said chapter 119.

**SECTION 52.** Section 9B of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 53.** Section 48 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in line 93, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 54.** Chapter 38 of the General Laws is hereby amended by striking out section 2A, as so appearing, and inserting in place thereof the following section:-

Section 2A. (a) As used in this section, the following words shall have the following meanings:—

“Child”, a person under the age of 18.

“Fatality”, any death of a child.

“Local team”, a local child fatality review team established pursuant to subsection (c).

“Near fatality”, an act that, as certified by a physician, places a child in serious or critical condition.

“State team”, the state fatality review team established by subsection (b).

“Team”, the state or a local team.

(b) There shall be a state child fatality review team within the office of the chief medical examiner. Notwithstanding section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of the state



police, on behalf of the chief medical examiner. All members shall serve without compensation for their duties associated with membership on the state team.

The state team shall consist of at least the following members:— the chief medical examiner, who shall chair the state team; the attorney general or a designee; the commissioner of children and families or a designee; the commissioner of public health or a designee; the commissioner of elementary and secondary education or a designee; a representative selected by the Massachusetts District Attorneys Association; the colonel of the state police or a designee; the commissioner of mental health or a designee; the commissioner of mental retardation or a designee; the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center, or a designee; the commissioner of youth services or a designee; a representative selected by the Massachusetts chapter of the American Academy of Pediatrics who has experience in diagnosing or treating child abuse and neglect; a representative selected by the Massachusetts Hospital Association; the chief justice of the juvenile division of the trial court or a designee; the president of the Massachusetts Chiefs of Police Association Incorporated or a designee; the child advocate appointed under section 3 of chapter 18C or a designee; and any other person, selected by the chair or by majority vote of the members of the state team, with expertise or information relevant to an individual case.

The purpose of the state team shall be to decrease the incidence of preventable child fatalities and near fatalities by: (i) developing an understanding of the causes and incidence of child fatalities and near fatalities; and (ii) advising the governor, the general court and the public by recommending changes in law, policy and practice that will prevent child fatalities and near fatalities.

To achieve its purpose, the state team shall:

- (i) develop model investigative and data collection protocols for local teams;
- (ii) provide information to local teams and law enforcement agencies for the purpose of the protection of children;
- (iii) provide training and written materials to local teams to assist them in carrying out their duties;
- (iv) review reports from local teams;
- (v) study the incidence and causes of child fatalities and near fatalities in the commonwealth;
- (vi) analyze community, public and private agency involvement with the children and their families prior to and subsequent to fatalities or near fatalities;
- (vii) develop a protocol for the collection of data regarding fatalities and near fatalities and provide training to local teams on the protocol;
- (viii) develop and implement rules and procedures necessary for its own operation; and
- (ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, which shall include, but not be limited to, the state team's findings and recommendations.

(c) There shall be a local child fatality review team in each of the 11 districts headed by a district attorney. Notwithstanding section 172 of chapter 6, members of a local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on a local team.

Each local team shall be comprised of at least the following members: the district attorney of the county, who shall chair the local team; the chief medical examiner or a designee; the commissioner of children and families or a designee; a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team; a local police officer from the municipality where the child fatality or near fatality occurred, appointed by the chief of police of that municipality; a state law enforcement officer, appointed by the colonel of state police; the chief justice of the juvenile division of the trial court or a designee; the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center, or a designee; the commissioner of public health or a designee; and any other person with expertise or information relevant to an individual case who may attend meetings, on an ad hoc basis, by agreement of the permanent members of each local team. Those other persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of mental retardation, mental health, youth services and education.

The purpose of each local team shall be to decrease the incidence of preventable child fatalities and near fatalities by: (i) coordinating the collection of information on fatalities and near fatalities; (ii) promoting cooperation and coordination between agencies responding to fatalities and near fatalities and in providing services to family members; (iii) developing an understanding of the causes and incidence of child fatalities and near fatalities in the county; and (iv) advising the state team on changes in law, policy or practice which may affect child fatalities and near fatalities.

To achieve its purpose, each local team shall:

- (i) review, establish and implement model protocols from the state team;
- (ii) review, subject to the approval of the local district attorney, all individual fatalities and near fatalities in accordance with the established protocol;
- (iii) meet periodically, but at least 4 times per calendar year, to review the status of fatality and near fatality cases and recommend methods of improving coordination of services between member agencies;
- (iv) collect, maintain and provide confidential data as required by the state team; and
- (v) provide law enforcement or other agencies with information for the purposes of the protection of children.

At the request of the local district attorney, the local team shall be immediately provided with:

- (i) information and records relevant to the cause of the fatality or near fatality maintained by providers of medical or other care, treatment or services, including dental and

mental health care;

(ii) information and records relevant to the cause of the fatality or near fatality maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records, and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney;

(iii) information and records of any provider of social services, including the state department of children and families, relevant to the child or the child's family, that the local team deems relevant to the review; and

(iv) demographic information relevant to the child and the child's immediate family, including but not limited to, address, age, race, gender, and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

(d) Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapters 112, 123, or sections 20B, 20J or 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair of the state team or a local team. Any information considered to be confidential pursuant to the aforementioned statutes may be submitted for a team's review upon the determination of that team's chair that the review of this information is necessary. The chair shall ensure that no information submitted for a team's review is disseminated to parties outside the team. Under no circumstances shall any member of a team violate the confidentiality provisions set forth in the aforementioned statutes.

Except as necessary to carry out a team's purpose and duties, members of a team and persons attending a team meeting may not disclose any information relating to the team's business.

Team meetings shall be closed to the public. Information and records acquired by the state team or by a local team pursuant to this chapter shall be confidential, exempt from disclosure under chapter 66, and may only be disclosed as necessary to carry out a team's duties and purposes.

Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(e) Members of a team, persons attending a team meeting and persons who present information to a team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a team meeting.

(f) Information, documents and records of the state team or of a local team shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during proceedings of a team or are maintained by a team.



(g) Nothing in this section shall limit the powers and duties of the chief medical examiner or district attorneys.

**SECTION 55.** Section 3 of said chapter 38, as so appearing, is hereby amended by striking out, in line 43, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 56.** Section 1A of chapter 46 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 57.** Section 6 of said chapter 46, as so appearing, is hereby amended by striking out, in lines 4 and 6, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 58.** Subsection (g) of section 13 of said chapter 46, as so appearing, is hereby amended by adding the following sentence:- If a person who was in the custody of the department of children and families is adopted and the adopting parents surrender the person back to the department, that person shall have the right to change the birth certificate back to that person’s biological name.

**SECTION 59.** Said section 13 of said chapter 46 is hereby further amended by striking out, in lines 193 and 194, and in line 200, as so appearing, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 60.** Section 21 of chapter 62C of the General Laws is hereby amended by striking out, in line 34, as so appearing, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 61.** Section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in lines 64 and 65, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 62.** Section 37L of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The school committee of each city, town or regional school district shall inform teachers, administrators, and other professional staff of reporting requirements for child abuse and neglect under section 51A of chapter 119 and the reporting requirements for fires under section 2A of chapter 148.

**SECTION 63.** Said section 37L of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 12 and 15, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 64.** Section 1 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in line 55, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 65.** Section 2 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 66.** Section 3 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 178, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 67.** Section 5A of said chapter 71B, as so appearing, is hereby amended by striking out, in line 50, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 68.** Section 10 of said chapter 71B, as so appearing, is hereby amended by striking out, in lines 37 and 45, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 69.** Section 12B of said chapter 71B, as so appearing, is hereby amended by striking out, in line 12, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 70.** Section 7 of chapter 74 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 71.** Section 7A of said chapter 74, as so appearing, is hereby amended by striking out, in line 4, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 72.** Section 8A of said chapter 74, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 73.** Section 15A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words “social services, the office of child care services” and inserting in place thereof the following words:- children and families, the department of early education and care.

**SECTION 74.** Section 7 of chapter 76 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 15, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 75.** Section 4J of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words “social services” and inserting in place thereof the following words:— children and families.

**SECTION 76.** Said chapter 111 is hereby further amended by striking out section 24K, inserted by section 2 of chapter 356 of the acts of 2006, and inserting in place thereof the following section:-

Section 24L. (a) The department of public health shall collaborate with the department of children and families, the child abuse prevention board and staff of the Children's Trust Fund, the office of the child advocate, other state agencies serving families

and children, health care providers, law enforcement personnel, human service providers, and child advocacy organizations to develop and implement a comprehensive, state-wide shaken baby syndrome prevention initiative to reduce death and disability resulting from shaken baby syndrome. The initiative shall be subject to appropriation and shall include, but not be limited to:

(1) the institution of a program to educate parents or guardians concerning shaken baby syndrome prevention, provided that parents or guardians of a newborn shall, by the time of discharge from a hospital or birth center, receive education and materials to be developed by the department of public health describing the dangers of shaking infants and children and the risks associated with shaken baby syndrome. Education and materials shall include, but not be limited to, information concerning the medical and physical effects of shaking infants and children, appropriate methods of handling infants and children, methods of preventing and reducing the risk of shaking infants and children, and the availability of community-based programs and other resources to prevent shaken baby syndrome;

(2) the institution of education and training programs concerning the prevention and diagnosis of shaken baby syndrome for parents, caregivers, health care providers, and other professionals who serve or have contact with children and families, and the department of public health shall develop necessary educational materials;

(3) the development of a program to support and serve victims and families affected by shaken baby syndrome; and

(4) the creation of a surveillance and data collection program to measure the incidence of shaken baby syndrome and traumatic brain injury in infants and children.

(b) No caregivers, health providers, or other professionals serving children and families who provide education or report information related to the department's surveillance process shall be liable in any civil or criminal action, if the actions were required by this section and made in good faith.

(c) The department of public health may adopt regulations to implement this section. The department shall consult with a state-wide advisory group of interested parties before implementation of the initiative and the regulations adopted under this section. The department shall, in consultation with the department of children and families, the office of the child advocate, and the child abuse prevention board and staff of the Children's Trust Fund, conduct an annual evaluation of the shaken baby syndrome prevention initiative and shall report annually to the governor concerning the activities undertaken as part of the initiative and the results of the annual evaluation. A copy of the report shall be filed with the clerks of the senate and the house not later than February 1 of each year.

**SECTION 77.** Section 220 of said chapter 111, as appearing the 2006 Official Edition, is hereby amended by striking out, in line 23, the words "social services" and inserting in place thereof the following words:- children and families.

**SECTION 78.** The first paragraph of section 13A of chapter 111E of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in



place thereof the following sentence:- The division shall, in accordance with this section, accept for referral children determined to be in need of services under section 39G of chapter 119 and referred to the division by the department of children and families, hereinafter referred to as the department, or by the juvenile court.

**SECTION 79.** Section 3 of chapter 111G of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “public welfare, the department of social services, and the office for children” and inserting in place thereof the following words:- transitional assistance, the department of children and families and the department of early education and care.

**SECTION 80.** Section 4B of chapter 118 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 81.** Section 22 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 82.** Chapter 119 of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. It is hereby declared to be the policy of this commonwealth to direct its efforts, first, to the strengthening and encouragement of family life for the care and protection of children; to assist and encourage the use by any family of all available resources to this end; and to provide substitute care of children only when the family itself or the resources available to the family are unable to provide the necessary care and protection to insure the rights of any child to sound health and normal physical, mental, spiritual and moral development.

The purpose of this chapter is to insure that the children of the commonwealth are protected against the harmful effects resulting from the absence, inability, inadequacy or destructive behavior of parents or parent substitutes, and to assure good substitute parental care in the event of the absence, temporary or permanent inability or unfitness of parents to provide care and protection for their children.

The health and safety of the child shall be of paramount concern and shall include the long-term well-being of the child.

In all matters and decisions by the department of children and families, the policy of the department, as applied to children in its care and protection or children who receive its services, shall be to define best interests of the child as that which shall include, but not be limited to, considerations of precipitating factors and previous conditions leading to any decisions made in proceedings related to the past, current and future status of the child, the current state of the factors and conditions together with an assessment of the likelihood of their amelioration or elimination; the child's fitness, readiness, abilities and developmental levels; the particulars of the service plan designed to meet the needs of the child within the child's current placement whether with the child's family or in a substitute care placement

and whether such service plan is used by the department or presented to the courts with written documentation; and the effectiveness, suitability and adequacy of the services provided and of placement decisions, including the progress of the child or children therein. The department's considerations of appropriate services and placement decisions shall be made in a timely manner in order to facilitate permanency planning for the child.

In all department proceedings that affect the child's past, current and future placements and status, when determining the best interests of the child, there shall be a presumption of competency that a child who has attained the age of 12 is able to offer statements on the child's own behalf and shall be provided with timely opportunities and access to offer such statements, which shall be considered by the department if the child is capable and willing. In all matters relative to the care and protection of a child, the ability, fitness and capacity of the child shall be considered in all department proceedings.

For purposes of this section, the words "all department proceedings" shall include departmental hearings and proceedings but shall not include a court proceeding even when the department is a party.

**SECTION 83.** Said chapter 119 is hereby further amended by striking out sections 21 to 23, inclusive, as so appearing, and inserting in place thereof the following 4 sections:—

Section 21. As used in sections 21 to 55H, inclusive, the following words shall have the following meanings, unless the context clearly otherwise requires:—

"51A report", a report filed with the department under section 51A that details suspected child abuse or neglect.

"Child", a person under the age of 18.

"Child advocate", the child advocate appointed under chapter 18C.

"Child in need of services", a child between the ages of 6 and 16 who: (a) repeatedly runs away from the home of a parent or legal guardian; (b) repeatedly fails to obey the lawful and reasonable commands of a parent or legal guardian, thereby interfering with the parent's or legal guardian's ability to adequately care for and protect the child; (c) repeatedly fails to obey lawful and reasonable school regulations; or (d) when not otherwise excused from attendance in accordance with lawful and reasonable school regulations, willfully fails to attend school for more than 8 school days in a quarter.

"Commissioner", the commissioner of children and families.

"Custody", the power to: (1) determine a child's place of abode, medical care and education; (2) control visits to a child; and (3) consent to enlistments, marriages and other contracts otherwise requiring parental consent. If a parent or guardian objects to the carrying out of any power conferred by this paragraph, that parent or guardian may take application to the committing court and the court shall review and make an order on the matter.

"Department", the department of children and families.

"Mandated reporter", a person who is: (i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under

section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family day care systems or child care food programs, licenser of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a district court, parole officer, social worker, foster parent, firefighter, police officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis; (v) in charge of a medical or other public or private institution, school or facility or that person's designated agent; or (vi) the child advocate.

"Parent", a mother or father, unless another relative has been designated as a parent as defined in section 1 of chapter 118 for the purposes of receiving benefits from the department of transitional assistance.

"Qualified expert", a person who is qualified as an expert according to the rules of the common law or by statute or is an agent of the department or of an approved charitable corporation or agency substantially engaged in the foster care or protection of children.

"Relative", the father or mother of a child; a stepfather, stepmother, stepbrother, stepsister, or any blood relative of a child, including those of the half blood, except cousins who are more distantly related than first cousins; any adoptive relative of equal propinquity to the foregoing; or a spouse of any such persons.

"Serious bodily injury", bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Section 21A. Evidence in proceedings under sections 21 to 55H shall be admissible according to the rules of the common law and the general laws and may include reports to the court by a qualified expert who has made an investigation of the facts relating to the welfare of the child. The qualified expert may file with the court in a proceeding under said sections a report in full of all the facts obtained as a result of such investigation. The qualified expert may be called as a witness by any party for examination as to the statements made in the report. The examination shall be conducted as though it were on cross-examination. Evidence may include testimony of foster parents or pre-adoptive parents concerning the welfare of a child if such child has been in the care of the foster or pre-adoptive parents for 6 months or more, and may include the testimony of the child if the court determines that the child is competent and willing, after consultation with counsel, if any, to testify.



Section 22. An agent of the department shall visit each family foster home, not supervised and approved by a licensed placement agency, at least once a year and may be authorized by the department to remove a child to its care if, in its judgment, the welfare of the child or its protection from neglect or abuse so require. An agent who is refused entry or hindered in the removal of such child may make complaint, on oath, to a justice of the court having jurisdiction, who may thereupon issue a warrant authorizing the agent to obtain sufficient aid and, at any reasonable time, enter the building designated, and any part thereof, to investigate the treatment and condition of a child found there and to remove the child as herein provided. The department shall take the child temporarily into its care, immediately notify the child's parent or legal guardian and, upon request, discharge the child to a parent or legal guardian. If the parent or legal guardian is unable or refuses to make suitable provisions for the child, the department shall make lawful provisions for the child's care under section 23 or 24.

Section 23. (a) The department shall have the responsibility, including financial responsibility, for providing foster care for children through its own resources or by use of appropriate voluntary agencies, according to the rules and regulations of the department, in the following instances:-

(1) If a child, parent, guardian, or any person acting on behalf of a child, applies for foster care, the department may accept a child who, in the judgment of the department, is in need of foster care. Such acceptance shall entail no abrogation of parental rights or responsibilities, but the department may accept from parents a temporary delegation of certain rights and responsibilities necessary to provide the foster care for a period of time under conditions agreed upon by both and terminable by either. If the department determines that continued placement beyond 6 months is required for reasons unrelated to parental unfitness and the parent consents to continued placement, the department may file a petition for care and responsibility in the probate court on behalf of a child accepted into foster care. At the initial hearing on the petition, the court shall determine whether continued placement with the department is in the child's best interests and shall issue its determination, including its rationale, in written form. The allowance of the petition shall not abrogate a parent's right to make decisions on behalf of the child, but the department may accept from the parent a temporary delegation of certain rights and responsibilities necessary to continue to provide foster care for the child under conditions agreed upon by both and terminable by either. Notwithstanding any general or special law to the contrary, a permanency hearing shall be held within 60 days of the transfer of responsibility by order of the probate court or within 12 months of initial placement into foster care with the department, whichever date is later. The hearing shall be conducted as provided in section 29B.

(2) If a parent or parents apply for voluntary surrender of custody of a child for purposes of giving consent to adoption, the department may accept the child following the procedure described in clause (1).

(3) If a child is without proper guardianship due to death, unavailability, incapacity or unfitness of a parent or guardian or with the consent of a parent or parents, the department

may seek, and shall accept, an order of the probate court granting responsibility for the child to the department. Such responsibility shall include the right to: (i) determine the child's abode, medical care and education; (ii) control visits to the child; (iii) consent to enlistments, marriages and other contracts requiring parental consent; and (iv) consent to adoption only when it is expressly included in an order of the court. In making an order, the probate court shall consider section 29C and shall make the written certification and determinations required by said section 29C. If a child is in the care of the department of mental health or the department of mental retardation, the responsibility for the child as described in this section and all rights therein contained shall continue in the department. If a person with mental retardation who has been declared mentally incompetent was the responsibility of the department prior to reaching the age of 18, the department shall continue to exercise responsibility for that person until that person is declared to be no longer legally incompetent.

(4) The department shall accept on commitment from the juvenile court any child declared in need of foster care under section 26 or declared to be a child in need of services under section 39G.

(5) Any child who is left in any place and who is seemingly without a parent or legal guardian available shall be immediately reported to the department, which shall proceed to arrange care for that child temporarily and shall forthwith cause search to be made for that child's parent or guardian. If a parent or guardian cannot be located or is unable or refuses to make suitable provision for the child, the department shall make such lawful provision it deems in the best interest of that child as provided under this chapter.

(6) If the department has in its care a child whose parent or parents have consented to the child's adoption and the department has been unable to place that child in an adoptive home within 60 days of receipt of the consent, the department shall so notify all children's foster care agencies in the commonwealth licensed to place children for adoption. The notice shall request that each such agency attempt to find an adoptive home for such child. If 1 of the agencies locates an adoptive home for this child, the department shall cooperate with the agency in the placement of the child in this home and in the supervision of the placement during the 1 year waiting period. Any person in whose home a child has been placed by the department shall also be informed by the department if the child has become eligible for adoption, and this person may request consideration as a prospective adoptive parent.

(7) A temporary shelter care facility program or a group care facility, licensed under chapter 15D, may provide temporary shelter for a 72-hour period to a child without parental consent, if the child's welfare would be endangered if such shelter were not immediately provided. At the expiration of the 72-hour period, the licensee shall: (i) secure the consent of a parent or guardian to continued custody and care; (ii) refer the child to the department for custody and care; or (iii) refuse to provide continued care and custody to the child.

(b) The department shall develop guidelines and standards for the placement of children in foster care. The guidelines and standards shall be reviewed by the executive office of health and human services and the child advocate.

(c) Whenever the department places a child in foster care, the department shall immediately commence a search to locate any relative of the child or other adult person who has played a significant positive role in that child's life in order to determine whether the child may appropriately be placed with that relative or person if, in the judgment of the department, that placement would be in the best interest of the child.

The department shall also seek to identify any minor sibling or half-sibling of the child and attempt to place these children in the same foster family if, in the judgment of the department, that placement would be in the best interests of the children.

(d) The department may pay a sum not to exceed \$1,100 for the funeral and burial of a child in its care; provided that the cost of the funeral and burial does not exceed \$1,500 and there are insufficient resources to pay for the cost of the funeral and burial. Any resources of the child shall be deducted from the maximum cost of the funeral and burial allowable hereunder and the difference, subject to the limitation set forth in this subsection, shall be paid by the department.

(e) If a child is placed in or transferred to a foster home, a completed child profile form shall precede or accompany the child to the foster home. In the case of an emergency placement, the department, the department of youth services, the department of mental health, other departments of the commonwealth responsible for the placement of foster children, or a placement agency shall immediately provide a brief verbal or written statement describing the child's outstanding problem behaviors and mental and emotional problems and shall provide the child profile form within 10 days to the foster parents.

The department shall develop a child profile form to be used by all other departments of the commonwealth or placement agencies that shall contain the child profile and any other relevant information necessary to the care, well-being, protection and parenting of the child by the foster parents, including, but not be limited to: (i) a history of the child's previous placements and reasons for placement changes; (ii) a history of the child's problem behaviors and mental and emotional problems; (iii) educational status and school related problem behaviors; and (iv) any other necessary psychological, educational, medical or health information.

The child profile form shall immediately be prepared by the department of the commonwealth which is granted care and custody of the child at the time such care and custody is granted.

(f) The department may continue its responsibility as provided in this section for any person under 22 years of age: (i) for the purposes of specific educational or rehabilitative programs, or (ii) to promote and support that person in fully developing and fulfilling that person's potential to be a participating citizen of the commonwealth under conditions agreed upon by both the department and that person. The purposes and conditions of such responsibility may be reviewed and revised or terminated by either the person or the department. If, after termination, the person requests that the department renew its responsibility therefore, the department shall make every reasonable attempt to provide a program of support which is acceptable to the person and which permits the department to



renew its responsibility.

The department shall report annually to the child advocate, chairs of the joint committee on children, families and persons with disabilities and the senate and house committees on ways and means on the numbers of persons it serves and declines to serve under this subsection.

(g) 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 under 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 immediately notify the IV-D agency when a child whose rights to support are subrogated no longer receives foster care maintenance payments under said Title IV, Part E, of the Social Security Act.

(h) The department shall, subject to appropriation, provide assistance to foster care families which includes maintenance payments at the daily rate recommended and periodically adjusted by the United States Department of Agriculture. The department shall periodically review the level of assistance including maintenance payments provided to adoptive and guardianship families and may, subject to appropriation, and consistent with federal law and policy, adjust such assistance as warranted by the financial circumstances of the family, the needs of the child or the rate of inflation.

The department shall report annually on September 1, to the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities on the amounts expended to provide to foster care, adoptive and guardianship families financial and other assistance including, but not limited to, payments to provide for the care of children.

(i) The department, in consultation with the executive office of public safety and security, shall work with the department of state police and municipal police departments to ensure that adequate efforts are being made to identify and to provide for the immediate protection, care and custody of the minor children of a person arrested or placed in custody by police officers in the performance of their official duties.

**SECTION 84.** Said chapter 119 is hereby further amended by striking out sections 24 to 26A, inclusive, as so appearing, and inserting in place thereof the following 6 sections:—

Section 24. A person may petition under oath the juvenile court alleging on behalf of a child within its jurisdiction that the child: (a) is without necessary and proper physical or educational care and discipline; (b) is growing up under conditions or circumstances damaging to the child's sound character development; (c) lacks proper attention of the parent, guardian with care and custody or custodian; or (d) has a parent, guardian or custodian who

is unwilling, incompetent or unavailable to provide any such care, discipline or attention.

The court may issue a precept to bring the child before the court, and shall issue a notice to the department and summonses to both parents of the child to show cause why the child should not be committed to the custody of the department or why any other appropriate order should not be made. A petition under this section may be brought in the judicial district where the child is located or where the parent, guardian with care and custody or custodian is domiciled. The summonses shall include notice that the court may dispense with the right of the parents to notice of or consent to the adoption, custody or guardianship or any other disposition of the child named therein if it finds that the child is in need of care and protection and that the best interests of the child would be served by any such disposition. Notice shall be by personal service upon the parent. If the identity or whereabouts of a parent is unknown, the petitioner shall cause notice in a form prescribed by the court to be served upon such parent by publication once in each of 3 successive weeks in any newspaper as the court may order. If no parent can be found after reasonable search, a summons shall be issued to the child's legal guardian, if any, known to reside within the commonwealth and, if none, to the person with whom such child last resided, if known.

If the court is satisfied after the petitioner testifies under oath that there is reasonable cause to believe that: (i) the child is suffering from serious abuse or neglect or is in immediate danger of serious abuse or neglect; and (ii) that immediate removal of the child is necessary to protect the child from serious abuse or neglect, the court may issue an emergency order transferring custody of the child for up to 72 hours to the department or to a licensed child care agency or individual described in subclause (ii) of clause (2) of subsection (b) of section 26.

Upon entry of the order, notice to appear before the court shall be given to either parents, both parents, a guardian with care and custody or another custodian. At that time, the court shall determine whether temporary custody shall continue beyond 72 hours until a hearing on the merits of the petition for care and protection is concluded before the court. The court shall also consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C.

Upon the issuance of the precept and order of notice, the court shall appoint a qualified expert to investigate the conditions affecting the child and to make a report under oath to the court, which shall be attached to the petition and be a part of the record.

If the child is alleged to be abandoned, as defined in section 3 of chapter 210, hearings on the petition under section 26 shall be expedited. If the parents or guardians consent, a child may be committed to the department under this section without a hearing or notice.

Section 25. The petition under section 24 may be heard on the merits when a child is taken into custody and brought before the court or may be continued to a time fixed for hearing. Pending the hearing on the merits, the court may allow the child to be placed in the care of some suitable person or licensed agency providing foster care for children or may commit the child to the custody of the department. If the court commits a child to the cus-

today of the department, the court shall consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C.

Section 26. (a) If the child is identified by the court and it appears that the precept and summonses have been duly and legally served, that notice has been issued to the department and the report of the qualified expert is received, the court may excuse the child from the hearing and shall proceed to hear the evidence.

(b) If the court finds the allegations in the petition proved within the meaning of this chapter, it may adjudge that the child is in need of care and protection. In making such adjudication, the health and safety of the child shall be of paramount concern. If the child is adjudged to be in need of care and protection, the court may commit the child to the custody of the department until he becomes an adult or until, in the opinion of the department, the object of his commitment has been accomplished, whichever occurs first; and the court shall consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C. The court also may make any other appropriate order, including conditions and limitations, about the care and custody of the child as may be in the child's best interest including, but not limited to, any 1 or more of the following:

(1) It may permit the child to remain with a parent, guardian or other custodian, and may require supervision as directed by the court for the care and protection of the child.

(2) It may transfer temporary or permanent legal custody to:

(i) any person, including the child's parent, who, after study by a probation officer or other person or agency designated by the court, is found by the court to be qualified to give care to the child;

(ii) any agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child; or

(iii) the department of children and families.

(3) It may order appropriate physical care including medical or dental care.

(4) It may dispense with the need for consent of any person named in section 2 of chapter 210 to the adoption, custody, guardianship or other disposition of the child named therein.

In determining whether such an order should be made, the standards set forth in section 3 of said chapter 210 concerning an order to dispense with the need for consent to adoption of a child shall be applied. If the child who is the subject of the petition is under the age of 12, and if the court adjudicates the child to be in need of care and protection under this section, the court shall enter an order dispensing with the need for consent to adoption upon finding that the best interests of the child, as defined in paragraph (c) of said section 3 of said chapter 210, will be served thereby. The entry of such an order shall have the effect of terminating the rights of a person named therein to receive notice of or to consent to any legal proceeding affecting the custody, guardianship, adoption or other disposition of the child named therein.



The department shall file a petition or a motion to amend a petition to dispense with parental consent to adoption, custody, guardianship or other disposition of the child if: (i) the child has been abandoned; (ii) the parent has been convicted by a court of competent jurisdiction of the murder or voluntary manslaughter of another child of such parent, of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter or of an assault constituting a felony which resulted in serious bodily injury to the child or to another child of such parent; or (iii) the child has been in foster care in the custody of the state for 15 of the immediately preceding 22 months. Under this paragraph, a child shall be considered to have entered foster care on the earlier of: (a) the date of the first judicial finding, under section 24 or this section, that the child has been subjected to abuse or neglect; or (b) the date that is 60 days after the date on which the child is removed from the home. The department shall concurrently identify, recruit, process and approve a qualified family for adoption.

The department need not file such a motion or petition to dispense with parental consent to the adoption, custody, guardianship or other disposition of the child if the child is being cared for by a relative or the department has documented in the case plan a compelling reason for determining that such a petition would not be in the best interests of the child or that the family of the child has not been provided, consistent with the time period in the case plan, such services as the department deems necessary for the safe return of the child to the child's home if reasonable efforts as set forth in section 29C are required to be made with respect to the child.

Notwithstanding the foregoing, the following circumstances shall constitute grounds for dispensing with the need for consent to adoption, custody, guardianship or other disposition of the child: (i) the child has been abandoned; or (ii) the parent has been convicted by a court of competent jurisdiction of the murder or voluntary manslaughter of another child of such parent, of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter or of an assault constituting a felony which resulted in serious bodily injury to the child or to another child of the parent.

(5) The court may order the parents or parent of said child to reimburse the commonwealth or other agency for care in appropriate cases.

(c) On any petition filed in any court under this section, the department or the parents, person having legal custody, probation officer or guardian of a child or the counsel or guardian ad litem for a child may petition the court not more than once every 6 months for a review and redetermination of the current needs of such child whose case has come before the court, except that any person against whom a decree to dispense with consent to adoption has been entered under clause (4) of subsection (b) shall not have such right of petition for review and redetermination. Unless the court enters written findings setting forth specific extraordinary circumstances that require continued intervention by the court, the court shall enter a final order of adjudication and permanent disposition, not later than 15 months after the date the case was first filed in court. The date by which a final order of adjudication and

permanent disposition shall be entered may be extended once for a period not to exceed 3 months and only if the court makes a written finding that the parent has made consistent and goal-oriented progress likely to lead to the child's return to the parent's care and custody. Findings in support of such final order of adjudication and permanent disposition shall be made in writing within a reasonable time of the court's order. The court shall not lose jurisdiction over the petition by reason of its failure to enter a final order and the findings in support thereof within the time set forth in this paragraph.

Section 26A. When deciding whether to approve or reject a registration of interest for foster care placement, the department shall conduct a review of any misdemeanor offense discovered through a criminal offender record information search conducted under section 172B of chapter 6 in order to assist the department in accurately evaluating whether the mere existence of the offense has a substantial effect on the applicant's current or future ability to assume and carry out the responsibilities of a foster parent in such a manner that the rights of the child to sound health and normal physical, mental, spiritual and moral development are insured. The review shall include, but not be limited to, a review of the following: (i) the time that has elapsed between the date of the offense and the filing of the registration of interest; (ii) the seriousness and specific circumstances of the offense; (iii) the number and nature of other offenses; (iv) the age of the offender at the time of the offense; (v) the findings and recommendations of the family resource worker assigned by the department to discuss the facts surrounding the misdemeanor with the applicant; (vi) the recommendations given to the family resource worker by personal or employment references chosen by the applicant or received otherwise; (vii) the current and future needs of the child to be placed and the probable effect that the misdemeanor would have on the applicant's ability to fulfill those needs; (viii) any reports or recommendations received by the department from the applicant's parole or probation officer if 1 was assigned; (ix) a copy of the police report pertaining to the offense in question if obtainable within a reasonable period of time or discussions with a police officer familiar with the facts surrounding the offense; and (x) discussions with the child to be placed regarding his current and past relationship with the applicant, unless these discussions are inappropriate. Nothing in this section shall affect the discretion of the department to approve or reject the registration of interest for foster care placement.

Section 26B. (a) Whenever a child is placed in family foster care, the court and the department shall ensure that a grandparent of a child who is in the department's care or is the subject of a petition under this chapter shall, upon that grandparent's request, have access to reasonable visitation and that the department establish a schedule for that visitation, unless it is determined by the court or the department that grandparent visitation is not in the child's best interests. In determining the best interests of the child, the court or the department shall consider the goal of the service plan and the relationship between the grandparent and the child's parents or legal guardian. Upon recommendation by the department or on its own accord, the court may establish reasonable conditions governing grandparent visitation, including requiring that the grandparent be restrained from revealing the whereabouts of the

child's placement.

A grandparent of a child who is placed with the department voluntarily under clause (1) of subsection (a) of section 23 or placed in the custody of the department under an adoption surrender under section 2 of chapter 210, who is denied grandparent visitation by the department, may appeal through the department's fair hearing process. A grandparent may appeal the decision reached through the department's fair hearing process by filing a petition in the probate and family court for grandparent visitation. That grandparent shall have the right to court review by trial *de novo*.

A grandparent of a child who is the subject of a petition under this chapter and placed in the custody of the department may file a petition for visitation in the court which has committed the child to the custody of the department.

(b) The court or the department shall, whenever reasonable and practical and based upon a determination of the best interests of the child, ensure that children placed in foster care shall have access to and visitation with siblings in other foster or pre-adoptive homes or in the homes of parents or extended family members throughout the period of placement in the care and custody of the department, or after such placements, if the children or their siblings are separated through adoption or long-term or short-term placements in foster care.

The court or the department shall determine, at the time of the initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive or adoptive care, that sibling visitation rights be implemented through a schedule of visitations or supervised visitations, to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, and the child, if reasonable, and other parties who are relevant to the preservation of sibling relationships and visitation rights.

A child in foster care or sibling of a child placed voluntarily under clause (1) of subsection (a) of section 23 or under an adoption surrender under section 2 of chapter 210, who are denied visitation rights by the department, may appeal through the department's fair hearing process. The child or sibling may appeal the decision reached through the department's fair hearing process by filing a petition in the probate and family court for visitation. That child or sibling shall have the right to court review by trial *de novo*.

For children in the custody of the department pursuant to petition under this chapter, a child, sibling, parent, legal guardian or the department may file a petition for sibling visitation in the court committing the child to the custody of the department.

Periodic reviews shall evaluate the effectiveness and appropriateness of sibling visitations.

Any child over 12 years of age may request visitation with siblings who have been separated and placed in care or have been adopted in a foster or adoptive home other than where the child resides.

(c) A parent: (i) against whom a decree to dispense with consent to adoption has been entered under clause 4 of subsection (b) of section 26 or section 3 of chapter 210 or (ii) who has signed a voluntary adoption surrender under section 2 of chapter 210 shall not have the



rights provided under this section as to the child who is the subject of that decree or surrender.

(d) A child, parent, guardian, grandparent or the department may appeal a decision or order of the trial court to the appeals court under this section if such person or the department is a party thereto. The claim of appeal shall be filed in the office of the clerk or register of the trial court within 30 days following the court's decision or order. Thereafter, the appeal shall be governed by the Massachusetts Rules of Appellate Procedure.

Section 26C. The department shall provide all children's foster care agencies acting as agents of the department and that employ foster care providers, a summary of the record of any such foster care provider's employment as a foster care provider as compiled by the department. Said summary shall include names and contacts of all other agencies that employed such person as a foster care provider, the tenure of each such employment as a foster care provider, the reasons for ending each such employment, and any other information the department deems relevant and necessary to determine the employee's fitness to continue to be employed as a foster care provider. The department shall require any foster care agency that employs foster care providers and with which it contracts to supply the information included in such summary to the department and maintain this information in a database. The department shall consult the department of early education and care if necessary to facilitate the collection of this information.

**SECTION 85.** Said chapter 119 is hereby further amended by striking out sections 28 and 29, as so appearing, and inserting in place thereof the following 2 sections:—

Section 28. (a) During the pendency of an action brought under section 24, temporary orders providing for the support of a child may be entered. The court may thereafter enter a judgment against the party chargeable with support. When the court makes an order of support on behalf of a party, and that party is not covered by a private group health insurance plan, the court shall determine whether the person chargeable with support has private health insurance or a group plan available to him through an employer or organization that may be extended to cover the party for whom support is ordered. When the court has determined that the person chargeable with support has this insurance, such court shall include in the order or judgment a provision relating to the insurance. Any such order of support shall conform to and be enforced under section 12 of chapter 119A.

(b) Actions under this section to establish support of a child may be commenced by a parent, whether a minor or not; by the child; by the child's guardian, next of kin or other person standing in a parental relationship to the child; by the authorized agent of the department of children and families or any agency licensed under chapter 15D if the child is in its custody or is or was a recipient of any type of public assistance by the IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance, the department of children and families, the division of medical assistance, or any other public assistance program of the commonwealth. In the event that someone other than the IV-D agency commences the action, if the parent or child is or was a recipient of any type of public assistance, the court shall notify the IV-D agency of the pendency of the action and the IV-D

agency shall be permitted to intervene in the action.

(c) An order, or judgment of support under this section, may be entered notwithstanding the default of the person chargeable with support or his failure to appear personally.

(d) In determining the amount of current support to be paid, the court shall apply the child support guidelines established by the chief administrative justice of the trial court, or, in the absence of such standards, shall consider the factors set forth in section 32 of chapter 209.

(e) The person chargeable with support shall comply with this order, or judgment until it is dismissed or expires. When an action brought under section 24 is dismissed or a final order of commitment is entered, the order or judgment of support shall expire 6 months after the judgment of dismissal or final order of commitment. At the time of the dismissal or final order of commitment, the court shall notify the parties and the IV-D agency, as set forth in chapter 119A, of the expiration date of the support order or judgment.

Section 29. Whenever an adult with mental retardation who is the responsibility of the department or a child is before any court under clause (3) of subsection (a) of section 23, or sections 24 to 27, inclusive, this section or section 29B, that adult or child shall have and be informed of the right to counsel at all hearings and that the court shall appoint counsel for that adult or child if the adult or child is not able to retain counsel.

Whenever the department or a licensed child placement agency is a party to child custody proceedings, the parent, guardian or custodian of the adult with mental retardation or the child: (i) shall have and be informed of the right to counsel at all such hearings, including proceedings under sections 5 and 14 of chapter 201, and that the court shall appoint counsel if he is financially unable to retain counsel; and (ii) shall have and be informed of the right to a service plan or case plan for the adult with mental retardation or child and his family which complies with applicable state and federal laws and regulations for these plans. The probate and family court and the juvenile court departments of the trial court shall establish procedures for: (i) notifying the parent, guardian or custodian of these rights; and (ii) appointing counsel for an indigent parent, guardian or custodian within 14 days of a licensed child placement agency filing or appearing as a party in any such action. The department or agency shall provide a copy of the service or case plan to the parent, guardian or custodian of the adult with mental retardation or child and to the attorneys for all parties appearing in the proceeding within 45 days of the department or agency filing an appearance in such proceeding. Thereafter, any party may have the original or changed plan introduced as evidence, and with the consent of all parties the plan shall be filed with the court. Notwithstanding this section, the court may make such temporary orders as may be necessary to protect the adult with mental retardation or the child and society.

The department, upon its request, shall be represented by the district attorney for the district in which the case is being heard.

**SECTION 86.** Section 29B of said chapter 119 is hereby amended by striking out the first paragraph, as so appearing, and inserting in place thereof the following paragraph:-

Except as provided herein, within 12 months of the original commitment, grant of custody, or transfer of responsibility of a child to the department by a court of competent jurisdiction, and not less than every 12 months thereafter while the child remains in the care of the department, the committing court shall conduct a permanency hearing, in accordance with rules established by the chief justice for administration and management, to determine and periodically review thereafter the permanency plan for the child. The plan shall address whether and, if applicable, when: (1) the child will be returned to the parent; (2) the child will be placed for adoption and the steps the department will take to free the child for adoption; (3) the child will be referred for legal guardianship; (4) the child will be placed in permanent care with relatives; or (5) the child will be placed in another permanent planned living arrangement. The department shall file a permanency plan prior to a permanency hearing that shall address the above placement alternatives. The court shall consult with the child in an age-appropriate manner about the permanency plan developed for the child.

**SECTION 87.** Said chapter 119 is hereby further amended by striking out section 29C, as so appearing, and inserting in place thereof the following section:-

Section 29C. If a court of competent jurisdiction commits, grants custody or transfers responsibility for a child to the department or its agent, the court shall certify that the continuation of the child in his home is contrary to his best interests and shall determine whether the department or its agent, as appropriate, has made reasonable efforts prior to the placement of a child with the department to prevent or eliminate the need for removal from the home; but, if a child has been placed voluntarily with the department by the parent under clause (1) of subsection (a) of section 23 and the parent consents to continued placement under a petition filed under said clause (1) or clause (2) of said subsection (a) of said section 23, the court shall determine at an initial hearing only whether continued placement is in the child's best interests. Except as provided herein, if a court has previously committed, granted custody or transferred responsibility for a child to the department or its agent, the court shall determine not less than annually whether the department or its agent has made reasonable efforts to make it possible for the child to return safely to his parent or guardian. In making any determination, the health and safety of the child shall be of paramount concern.

Reasonable efforts by the department prior to removal of a child from the home or to return the child to a parent or guardian shall not be required if the court finds that: (i) the child has been abandoned as defined in section 3 of chapter 210; (ii) the parent's consent to adoption of a sibling of the child was dispensed with under section 26 or under said section 3 of said chapter 210, or the parent's rights were involuntarily terminated in a case involving a sibling of the child; (iii) the parent has been convicted of 1 of the following crimes by a court of competent jurisdiction: (a) murder or voluntary manslaughter of another child of the parent or aiding, abetting, attempting, conspiring or soliciting to commit such a murder or voluntary manslaughter; or (b) an assault constituting a felony which resulted in serious bodily injury to the child or another child of the parent; or (iv) a parent has subjected the child to aggravated circumstances consisting of murder of another parent of the child in the presence of the child or by subjecting the child or other children in the home to sexual abuse



or exploitation or severe or repetitive conduct of a physically or emotionally abusive nature. For the purposes of this section, conduct of an "emotionally abusive nature" shall mean any conduct causing an impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior.

If a court has determined at a permanency hearing convened under section 29B, that reasonable efforts to safely return the child to his parent or guardian are inconsistent with the permanency plan for the child or if a court has determined that reasonable efforts are not required as set forth herein, the court shall determine at least annually thereafter whether the department has made reasonable efforts to place the child in a timely manner in accordance with the permanency plan determined and reviewed under section 29B.

The court shall make the certification and determinations required under this section in written form, which shall include the basis for the certification and determinations. A determination by the court that reasonable efforts were not made shall not preclude the court from making any appropriate order conducive to the child's best interest.

**SECTION 88.** Section 32 of said chapter 119, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The department shall insure that every foster child upon entry into the foster care system shall be screened and evaluated under the early and periodic screening, diagnostic and treatment standards established by Title XIX of the Social Security Act, unless the child has been screened and evaluated within 30 days prior to his entry into the system.

**SECTION 89.** Said chapter 119 is hereby further amended by striking out section 38, as so appearing, and inserting in place thereof the following 2 sections:-

Section 38. All hearings under sections 1 to 38A, inclusive, except those related to court orders to not resuscitate or to withdraw life-sustaining medical treatment for children in the custody of the department under a care and protection order, shall be closed to the general public. It shall be unlawful to publish the names of persons before the court in any closed hearing.

Section 38A. In any proceedings related to court orders to not resuscitate or to withdraw life-sustaining medical treatment, the department or the party petitioning for the order shall require: (i) a written opinion from the child's treating physician, (ii) a written recommendation from the ethics committee of the hospital at which the child is a patient, and (iii) a written second opinion from a physician who is certified in the same medical specialty as the child's treating physician and who is not affiliated with the hospital at which the child is a patient. The department or the party petitioning for the order shall submit these documents to the court. The commissioner shall determine and make the department's recommendation to the court. The court shall also seek a recommendation from the child's parent or guardian. The court shall appoint a guardian ad litem to make a recommendation to the court on behalf of the child. Any appeal made under this section shall be an interlocutory appeal.

**SECTION 90.** Section 39½ of said chapter 119, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “of social services”.

**SECTION 91.** The first sentence of the eighth paragraph of said section 39½ of said chapter 119, as amended by chapter 86 of the acts of 2007, is hereby further amended by striking out the words “of social services”.

**SECTION 92.** Section 39E of said chapter 119, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 84, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 93.** Section 39G of said chapter 119, as so appearing, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 94.** Section 39H of said chapter 119, as so appearing, is hereby amended by striking out, in lines 13 and 14, and in line 23, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 95.** Said chapter 119 is hereby further amended by striking out section 51A, as so appearing, and inserting in place thereof the following section:-

Section 51A. (a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; or (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect.

If a mandated reporter is a member of the staff of a medical or other public or private institution, school or facility, the mandated reporter may instead notify the person or designated agent in charge of such institution, school or facility who shall become responsible for notifying the department in the manner required by this section.

A mandated reporter may, in addition to filing a report under this section, contact local law enforcement authorities or the child advocate about the suspected abuse or neglect.

(b) For the purpose of reporting under this section, hospital personnel may have photographs taken of the areas of trauma visible on the child without the consent of the child's parents or guardians. These photographs or copies thereof shall be sent to the department with the report.

If hospital personnel collect physical evidence of abuse or neglect of the child, the local district attorney, local law enforcement authorities, and the department shall be immediately notified. The physical evidence shall be processed immediately so that the department may make an informed determination within the time limits in section 51B. If there is a delay in processing, the department shall seek a waiver under subsection (d) of section 51B.

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of abuse or neglect under this section shall be punished by a fine of not more than \$1000.

(d) A report filed under this section shall contain: (i) the names and addresses of the child and the child's parents or other person responsible for the child's care, if known; (ii) the child's age; (iii) the child's sex; (iv) the nature and extent of the child's injuries, abuse, maltreatment or neglect, including any evidence of prior injuries, abuse, maltreatment or neglect; (v) the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; (vi) whatever action, if any, was taken to treat, shelter or otherwise assist the child; (vii) the name of the person or persons making the report; (viii) any other information that the person reporting believes might be helpful in establishing the cause of the injuries; (ix) the identity of the person or persons responsible for the neglect or injuries; and (x) other information required by the department.

(e) A mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the district attorney for the county in which the death occurred and the office of the chief medical examiner as required by clause (16) of section 3 of chapter 38. Any person who fails to file a report under this subsection shall be punished by a fine of not more than \$1,000.

(f) Any person may file a report under this section if that person has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

(g) No mandated reporter shall be liable in any civil or criminal action for filing a report under this section or for contacting local law enforcement authorities or the child advocate, if the report or contact was made in good faith, was not frivolous, and the reporter did not cause the abuse or neglect. No other person filing a report under this section shall be liable in any civil or criminal action by reason of the report if it was made in good faith and if that person did not perpetrate or inflict the reported abuse or cause the reported neglect. Any person filing a report under this section may be liable in a civil or criminal action if the department or a district attorney determines that the person filing the report may have perpetrated or inflicted the abuse or caused the neglect.

(h) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and attorney's fees.

(i) Within 30 days of receiving a report from a mandated reporter, the department shall notify the mandated reporter, in writing, of its determination of the nature, extent and cause or causes of the injuries to the child and the services that the department intends to provide to the child or the child's family.

(j) Any privilege relating to confidential communications, established by sections 135 to 135B, inclusive, of chapter 112 or by sections 20A and 20B of chapter 233, shall not prohibit the filing of a report under this section or a care and protection petition under section



24, except that a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report suspected child abuse or neglect under this section when the priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a mandated reporter.

**SECTION 96.** Section 51A of said chapter 119 is hereby amended by striking out subsection (c), as appearing in section 95, and inserting in place thereof the following subsection:—

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 2½ years and a fine of not more than \$2,000 for the third and subsequent offenses.

Any mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to or death of a child and willfully fails to report such abuse or neglect shall be punished by a fine of up to \$5,000 or imprisonment in the house of correction for not more than 2½ years or by both such fine and imprisonment; and, upon a guilty finding or a continuance without a finding, the court shall notify any appropriate professional licensing authority of the mandated reporter's violation of this paragraph.

**SECTION 97.** Said section 51A of said chapter 119 of the General Laws, as so appearing, is hereby further amended by adding the following subsection:—

(k) A mandated reporter who is professionally licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect.

**SECTION 98.** Said chapter 119 is hereby further amended by striking out section 51B, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:—

Section 51B. (a) Upon receipt of a report filed under section 51A, the department shall investigate the suspected child abuse or neglect, provide a written evaluation of the household of the child, including the parents and home environment and make a written determination relative to the safety of and risk posed to the child and whether the suspected child abuse or neglect is substantiated.

(b) The investigation shall include: (i) a home visit at which the child is viewed, if appropriate; (ii) a determination of the nature, extent and cause or causes of the injuries; (iii) the identity of the person or persons responsible therefore; (iv) the name, age and condition

of other children in the same household; (v) an evaluation of the parents and the home environment; and (vi) all other pertinent facts or matters. The department shall coordinate with other agencies to make all reasonable efforts to minimize the number of interviews of any potential victim of child abuse or neglect. Upon completion of the investigation and evaluation, the department shall make a written determination relative to: (i) the safety of the child and risk of physical or emotional injury to that child and the safety of and risk thereto of any other children in the household; and (ii) whether the suspected child abuse or neglect is substantiated.

(c) If the department has reasonable cause to believe a child's health or safety is in immediate danger from abuse or neglect, the department shall take a child into immediate temporary custody if it has reasonable cause to believe that the removal is necessary to protect the child from abuse or neglect. The investigation and evaluation shall commence within 2 hours of initial contact and an interim report with an initial determination regarding the child's safety and custody shall be completed as soon as possible but not more than 24 hours after initial contact. The final report required under this section shall be complete within 5 business days of initial contact. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition under section 24 on the next court day.

(d) If the department does not have reasonable cause to believe that a child's health or safety is in immediate danger from abuse or neglect, the investigation and evaluation shall commence within 2 business days of initial contact and a determination shall be made within 15 business days, unless a waiver has been approved by the area director or requested by law enforcement.

(e) Notwithstanding subsection (c), whenever the department has reasonable cause to believe that removal is necessary to protect a child from abuse or neglect, it shall take the child into immediate temporary custody. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition under section 24 on the next court day.

(f) If a child named in a report filed under section 51A is in an out-of-home placement and the suspected child abuse or neglect is substantiated, the department shall notify his parents that such report was filed and has been substantiated by the department. If the child died or suffered serious bodily injury, the department shall notify the parents, including the biological parents, if the department determines that such notification is in the best interest of the child or of another child in the same placement. The department shall consult with these parents in decisions about removal or further placement. These notifications and consultations shall not be required if the commissioner determines that such notifications or consultations are not appropriate or in the best interests of a child.

(g) The department shall offer appropriate services to the family of any child which it has reasonable cause to believe is suffering from any of the conditions described in the report to prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family life whenever possible. If the family declines or is unable to accept or to par-

participate in the offered services, the department or any person may file a care and protection petition under section 24.

(h) The department shall file in the central registry, established under section 51F, a written report containing information sufficient to identify each child whose name is reported under this section or section 51A. A notation shall be sent to the central registry whenever further reports on each such child are filed with the department. If the department determines during the initial screening period of an investigation that a report filed under section 51A is frivolous, or other absolute determination that abuse or neglect has not taken place, such report shall be declared as "allegation invalid". If a report is declared "allegation invalid", the name of the child, or identifying characteristics relating to the child, or the names of his parents or guardian or any other person relevant to the report, shall not be placed in the central registry or in any other computerized program utilized in the department.

(i) The department may purchase and utilize such protective services of private and voluntary agencies as it determines necessary.

(j) The department shall adopt regulations to implement the sections 51A to 51F, inclusive.

(k) The department shall notify and shall transmit copies of substantiated 51A reports and its written evaluations and written determinations under subsection (a) or (b) to the district attorney for the county in which the child resides and for the county in which the suspected abuse or neglect occurred, and to the local law enforcement authorities in the city or town in which the child resides and in the city or town in which the suspected abuse or neglect occurred when the department has reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect.

The department shall immediately report to the district attorney and local law enforcement authorities listed above when early evidence indicates there is reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect:

(1) a child has died or has suffered brain damage, loss or substantial impairment of a bodily function or organ, substantial disfigurement, or serious physical injury including, but not limited to, a fracture of any bone, a severe burn, an impairment of any organ or an injury requiring the child to be placed on life-support systems;

(2) a child has been sexually assaulted, which shall include a violation of section 13B, 13H, 22, 22A, 23, 24 or 24B of chapter 265 or section 35A of chapter 272;

(3) a child has been sexually exploited, which shall include a violation of section 4A, 4B or 29A of said chapter 272; or

(4) any other disclosure of physical abuse involving physical evidence which may be destroyed, any current disclosure by a child of sexual assault, or the presence of physical evidence of sexual assault.

Within 45 days of the notification under the first paragraph, the department shall further notify the district attorney of a service plan, if any, developed for such child and his family.



No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F of this chapter relating to confidential data or confidential communications shall prohibit the department from making such notifications or from providing to the district attorney or local law enforcement authorities any information obtained under this section. No person providing notification or information to a district attorney or local law enforcement authorities under this section shall be liable in any civil or criminal action by reason of such action. Nothing herein shall be construed to prevent the department from notifying a district attorney relative to any incident reported to the department under section 51A or to limit the prosecutorial power of a district attorney.

(l) If the department substantiates a report alleging that abuse or neglect occurred at a facility approved, owned, operated or funded, in whole or in part, by the department of elementary and secondary education, the department of early education and care, the department of mental health, the department of mental retardation, the department of public health or the department of youth services, the department shall notify the office of the child advocate and the affected department, in writing, by transmitting a copy of the report filed under section 51A and the department's written evaluation and written determination.

If the department is aware of a licensing violation in any such facility, the department shall immediately notify the affected department.

No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F, or any other provision of law shall prohibit: (i) the department from transmitting copies of reports filed under section 51A or its written evaluations and written determinations to the office of the child advocate or the affected departments; (ii) the department, the office of the child advocate and the affected departments from coordinating activities and sharing information for the purposes of this section or for investigating a licensing violation; or (iii) the department's employees from testifying at administrative hearings held by the affected department in connection with a licensing violation.

(m) Notwithstanding any privilege created by statute or common law relating to confidential communications or any statute prohibiting the disclosure of information but subject to subsection (j) of section 51A, a mandated reporter shall answer questions and provide information posed by the department relating to an investigation conducted under this section, whether or not that person filed the 51A report being investigated. A statutory or common law privilege shall not preclude the admission of any such information in any civil proceeding concerning abuse or neglect of a child, placement or custody of a child.

(n) No person required to provide such information under this section or permitted to disclose information under section 5A of chapter 119A shall be liable in any civil or criminal action for providing such information.

(o) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, provides such information, testifies or is about to testify in any proceeding involving child abuse or neglect unless such person perpetrated or inflicted such abuse or neglect. Any employer who discharges, discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees.

(p) If the department determines that a 51A report is not substantiated, the department shall notify in writing any and all sources or recipients of information in connection with the investigation that the report of abuse or neglect has not been substantiated, unless the target of the investigation requests that such notification not occur.

(q) The department and the private agencies under contract with it, shall conduct periodic and regular training and education to caseworkers, screeners of 51A reports, and administrators of the department and the agencies regarding their duties and obligations under section 51A and 51B.

(r) There shall be a review by a regional clinical review team when 3 or more 51A reports involving separate incidents have been filed on any child in a family within 3 months and a review by an area clinical review team when 3 or more 51A reports involving separate incidents have been filed on any child in a family within 1 year.

**SECTION 99.** Said chapter 119 is hereby further amended by striking out section 51D, as so appearing, and inserting in place thereof the following section:—

Section 51D. Each area director of the department shall be responsible for implementing subsection (k) of section 51B.

Each area director shall, in cooperation with the appropriate district attorney, establish 1 or more multi-disciplinary service teams to review the provision of services to the children and families who are the subject of 51A reports that meet the conditions of subsection (k).

Each team shall consist of the department's caseworker for the particular case, 1 representative of the appropriate district attorney, and at least 1 other member appointed by the area director who is not an employee of either office. The additional member shall have training and experience in the fields of child welfare or criminal justice and, as far as practicable, be involved with the provision of services to these families. No members of a team shall receive any compensation, or in the case of a state employee, any additional compensation, for service on the team.

The team shall review and monitor the service plan developed by the department under subsection (g) of section 51B. The team shall evaluate the effectiveness of the service plan in protecting the child from further abuse or neglect. The team shall make recommendations regarding amendments to the service plan, the advisability of prosecuting members of the family, and the possibility of utilizing diversionary alternatives. If the team finds that services required under such plan are not provided to the family, the case shall be referred to the commissioner.

The team shall have full access to the service plan and any personal data known to the department which is directly related to the implementation of the plan, notwithstanding sections 51E and 51F, chapter 66A, and section 135 of chapter 112. The members of the team shall be considered to be employees of the department for purposes of protecting the confidentiality of the data and the data shall be utilized solely to carry out the provisions of this section; provided, however, that the team may report to the district attorney if the family has failed to participate in the plan.

Each area director shall file a monthly report with the commissioner regarding the activities in the area which have occurred in the previous month pursuant to this section. The report shall be written on a form prescribed by the commissioner and shall include, but not be limited to, the number of cases reported under said subsection (k) of said section 51B, the activities of the teams, the availability of services described in the service plans, and the number of family members that are subject of the reports that have been prosecuted. The commissioner, after deleting all personal identifying information, shall combine these area reports into a monthly report that shall be filed with the secretary of health and human services, each district attorney, the joint committee on children, families and persons with disabilities, and the house and senate committees on ways and means.

**SECTION 100.** Said chapter 119 is hereby further amended by striking out section 51E and 51F, as amended by chapter 3 of the acts of 2008, and inserting in place thereof the following 2 sections:—

Section 51E. The department shall maintain a file of the written reports prepared under this section and sections 51A to 51D, inclusive. These written reports shall be confidential. Upon request and with the approval of the commissioner, copies of written reports of initial investigations may be provided to: (i) the child's parent, guardian, or counsel, (ii) the reporting person or agency, (iii) the appropriate review board, (iv) a child welfare agency of another state for the purpose of assisting that agency in determining whether to approve a prospective foster or adoptive parent, or (v) a social worker assigned to the case. No such report shall be made available to any persons other than those specified in this section without the written and informed consent of the child's parent or guardian, the written approval of the commissioner, or an order of a court of competent jurisdiction. Pursuant to chapter 18C, the child advocate shall have access to these reports.

A child welfare agency of another state may, upon request, and upon the approval of the commissioner, receive a copy of the written report of the initial investigation if the agency has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect.

The name and all other identifying information relating to any child, or to his parents or guardian, shall be removed from said reports 1 year after the department determines that the allegation of serious physical or emotional injury resulting from abuse or neglect cannot be substantiated, or, if said allegations are substantiated, when the child reaches the age of 18, or 1 year after the date of termination of services to the child or his family, whichever date occurs last; provided, however, that the department may retain information on unsubstantiated reports to assist in future risk and safety assessments of children and families and may release said information to the child welfare agencies of other states upon request of said child welfare agency for the purpose of assisting said child welfare agency in determining whether to approve a prospective foster or adoptive parent.

Any person who permits any information in the files to be released to persons other than those specified in this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2½ years, or both.



Section 51F. The department shall maintain a central registry of information sufficient to identify children whose names are reported under sections 51A to 51B. Data and information relating to individual cases in the central registry shall be confidential and shall be made available only with the approval of the commissioner or upon court order; provided, however, that the department, upon request, may release this data and information to a child welfare agency of another state for the purpose of assisting that agency in determining whether to approve a prospective foster or adoptive parent. The commissioner shall establish rules and regulations governing the availability of such data and information. Pursuant to chapter 18C, the child advocate shall have access to the information in the registry.

A child welfare agency of another state may, upon request, and upon the approval of the commissioner, receive information from the central registry if the agency has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect.

The name and all other identifying characteristics relating to any child which is contained in the central registry, or to his parents or guardian, shall be removed 1 year after the department determines, after investigation, that the allegation of serious physical or emotional injury resulting from abuse or neglect cannot be substantiated or, if said allegations are substantiated, when the child reaches the age of 18, or 1 year after the date of termination of services to the child or his family, whichever date occurs last. If the department determines during the initial screening period of an investigation that said report under section 51A is frivolous, or other absolute determination that abuse or neglect has not taken place, then said report shall be declared as "allegation invalid". If such reports are declared "allegation invalid", the name of the child, or identifying characteristics relating to the child, or the names of his parents or guardian or any other person relevant to the report, shall not be placed in the central registry, nor under any other computerized program utilized in the department. Nothing in this section shall prevent the department from keeping information on unsubstantiated reports to assist in future risk and safety assessments of children and families.

Any person employed in the central registry who permits the data and information stored in the registry to be released without authorization to persons other than those specified in the rules and regulations shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2½ years, or both.

**SECTION 101.** Said chapter 119 is hereby further amended by inserting after section 51G the following section:-

Section 51H. Notwithstanding any general or special law to the contrary, the department may send to, or receive from, any other state or country a protective alert containing any information about a child related to a substantiated report of child abuse or neglect if the department reasonably believes that the child has been or will be transported to another state or country.

**SECTION 102.** Said chapter 119 is hereby further amended by inserting after section 63 the following section:-

Section 63A. Whoever is 19 years of age or older and: (i) knowingly and willfully aids or abets a child under the age of 17, or under the age of 18 and in state custody, to violate an order of a juvenile court; or (ii) knowingly and willfully conceals or harbors a child who has taken flight from the custody of the court, a parent, a legal guardian, the department of children and families or the department of youth services shall be punished by a fine of not more than \$500 or by imprisonment in the house of correction for not more than 1 year, or by both such fine and imprisonment.

It shall be a defense to a violation of clause (ii) if the defendant concealed or harbored a child in the reasonable good faith belief that the child would be at risk of physical or sexual abuse if the child returned to his custodial residence, unless the defendant concealed or harbored such child with intent to abuse the child or if the defendant committed abuse on that child.

The court may release on probation under section 87 of chapter 276, subject to such orders as it may make as to future conduct tending to cause, induce or contribute to a person's status as a child in need of services or delinquency, or it may suspend sentence under section 1 of chapter 279, or before trial, with the defendant's consent, it may allow the defendant to enter into a recognizance, in such penal sum as the court may fix, conditioned to comply with such terms as the court may order for the promotion of the future welfare of the child, and the case may then be placed on file. The provisions for recognizance in section 56 of chapter 276 shall be applicable to cases arising hereunder.

The divisions of the juvenile court department shall, within their respective territorial limits, have exclusive jurisdiction over complaints alleging a violation of this section.

**SECTION 103.** Section 2 of chapter 119A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 21 and in lines 35 and 36, the words "social services" and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 104.** Section 3 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 2, the words "social services" and inserting in place thereof the following words:- children and families.

**SECTION 105.** Section 5 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 23, the words "social services" and inserting in place thereof, in each instance the following words:- children and families.

**SECTION 106.** Section 5A of said chapter 119A, as so appearing, is hereby amended by striking out, in lines 26, 27 and 84, the words "social services" and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 107.** Section 2 of chapter 201 of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the words "social services" and inserting in place thereof the following words:- children and families.

**SECTION 108.** Section 6B of said chapter 201, as so appearing, is hereby amended by adding the following 2 sentences:- The court shall not appoint as guardian any person petitioning for guardianship who: (i) is currently being investigated or has charges pending for committing an assault and battery that resulted in serious bodily injury to the incapacitated or ill person; or (ii) is currently being investigated or has charges pending for neglect of the incapacitated or ill person. The court shall terminate a guardianship appointed under this section if, upon petition, it is established that the guardian is: (i) currently being investigated or has charges pending for committing an assault and battery that resulted in serious bodily injury to the incapacitated or ill person; or (ii) is currently being investigated or has charges pending for neglect of the incapacitated or ill person.

**SECTION 109.** Section 32F of chapter 209 of the General Laws, as so appearing, is hereby amended by striking out, in lines 17, 28 and 29 and 42, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 110.** Section 5 of chapter 209C of the General Laws, as so appearing, is hereby amended by striking out, in lines 9, 13 and 14 and in line 54, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 111.** Section 8 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 17, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 112.** Section 9 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 67, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 113.** Section 11 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 36, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 114.** Section 13 of said chapter 209C, as so appearing, is hereby amended by striking out, in lines 9, 13 and 15 the words “social services” and inserting in place thereof, in each instance, the following words:-children and families.

**SECTION 115.** Section 16 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 44, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 116.** Section 1 of chapter 210 of the General Laws, as so appearing, is hereby amended by inserting after the word “separation”, in line 13, the following words:- , prolonged separation.

**SECTION 117.** Section 2 of said chapter 210, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 118.** Section 2A of said chapter 210, as so appearing, is hereby amended by striking out, in lines 5 and 14, the words “social services” and inserting in place thereof,



in each instance, the following words:- children and families.

**SECTION 119.** Section 3 of said chapter 210, as so appearing, is hereby amended by striking out, in lines 7 and 55, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 120.** Section 4 of said chapter 210, as so appearing, is hereby amended by striking out, in line 13, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 121.** Section 4A of said chapter 210, as so appearing, is hereby amended by striking out, in line 11, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 122.** Section 5A of said chapter 210, as so appearing, is hereby amended by striking out, in lines 2 and 3, 39 and 40 and in line 52, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

**SECTION 123.** Section 5E of said chapter 210, as so appearing, is hereby amended by striking out, in line 1, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 124.** Section 6 of said chapter 210, as so appearing, is hereby amended by striking out, in line 21, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 125.** Section 6C of said chapter 210, as so appearing, is hereby amended by striking out, in lines 35 and 36, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 126.** Section 11A of said chapter 210, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 127.** Section 5 of chapter 258C of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words “departments of social services and public welfare” and inserting in place thereof the following words:- department of children and families and the department of transitional assistance.

**SECTION 128.** Section 3 of chapter 273 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 129.** Section 18A of said chapter 273, as so appearing, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:- children and families.

**SECTION 130.** The initial appointments for members of the commission on the status of grandparents raising grandchildren established by section 69 of chapter 3 of the General Laws shall be made on or before March 1, 2009.

**SECTION 131.** The policies and procedures relative to minors whose parents or guardians are arrested or placed in custody by police officers required by clause (9) of section

18¾ of chapter 6A of the General Laws shall developed on or before December 31, 2008.

**SECTION 132.** Notwithstanding section 3 of chapter 18C of the General Laws, the child advocate appointed under Executive Order No. 494 shall continue to serve in that capacity at the pleasure of the governor.

**SECTION 133.** Notwithstanding section 10 of chapter 18C of the General Laws, the first annual report filed by the child advocate under said section 10 of said chapter 18C shall be filed on or before June 30, 2009.

**SECTION 134.** Notwithstanding subsection (c) of section 11 of chapter 18C of the General Laws, the first comprehensive plan filed by the child advocate under said section 11 of said chapter 18C shall be filed on or before June 30, 2010.

**SECTION 135.** (a) Notwithstanding section 51B of chapter 119 of the General Laws or any other general or special law to the contrary and consistent with any relevant collective bargaining agreement, the department of children and families may establish a pilot program of family engagement in child welfare practice. The department shall select 4 to 8 area offices in which to implement the pilot program. Each office shall then be divided into a control group and a differential response group, with each group using social worker teams based on caseload standards recommended by the Child Welfare League of America, Inc.

(b) The differential response group shall use a local unified entry point for (i) requests for voluntary services filed under section 23 of chapter 119 of the General Laws, (ii) court referrals, including those for children in need of services filed under section 39E of said chapter 119, and (iii) reports of suspected child abuse or neglect filed under section 51A of said chapter 119.

Upon entry of any such request, referral or report, the department shall have a period of initial engagement during which the request, referral or report shall be evaluated and a differential response, if any, shall be determined; but if the department has reasonable cause to believe the child's health or safety is in immediate danger from abuse or neglect, the department shall also view the child, conduct a safety assessment, and take any steps necessary to ensure the safety of the child. A rapid initial engagement for the latter circumstances shall commence within 2 hours and shall be completed within 36 hours; all other initial engagements shall be completed within 3 business days. The department shall determine whether the request, referral or report is appropriate for response and, if so, which differential response is appropriate: a protective response, a support and stabilization response or a community resource response.

A protective response shall be required if the department determines that the child has been or is at risk of serious harm. The protective response shall be conducted pursuant to said section 51B, except that the investigation shall be completed within 15 business days of the differential response determination unless a waiver has been approved by the area director or requested by law enforcement.

A support and stabilization response shall require department contact with the child's family within 2 business days of the differential response determination and an initial assessment of the family within 30 business days of the determination. Such a response shall

include at least 3 department visits with the child's family and may include the immediate provision of services.

A community resource response shall consist of providing information about and referral to community-based services. Such a response shall not include an investigation or a family assessment by the department.

After the completion of a protective response or a support and stabilization response and based on a family assessment, the department may determine that sustained engagement with the child's family is necessary. During sustained engagement, family assessments shall be conducted every 6 months until the department terminates its sustained engagement.

The differential response group shall use (i) evidence-based safety and risk assessment tools, (ii) family assessments, (iii) resource and service planning activities, and (iv) culturally competent staffing, resources and practices.

(c) The pilot program shall include an independent evaluation, including the impact on children and families, the effect on racial disproportionality and disparity, the associated costs, any recommendations for statewide implementation, and shall survey children, families, and staff involved with the pilot program.

(d) The department shall report the results of the evaluation and legislative recommendations, if appropriate, no later than 1 year after pilot program is established. The report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the speaker of the house, the president of the senate and the governor.

**SECTION 136.** The name of the department of social services is hereby changed to the department of children and families.

**SECTION 137.** Section 22 shall take effect on July 1, 2008.

**SECTION 138.** Section 97 shall take effect on January 1, 2010.

**SECTION 139.** Section 96 shall take effect on July 1, 2010.

Approved July 8, 2008

**Chapter 177. AN ACT DESIGNATING A CERTAIN PORTION OF SANDY BEACH  
IN THE TOWN OF WINCHESTER AS THE SENATOR CHARLES  
E. SHANNON, JR. MEMORIAL BEACH.**

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

Notwithstanding any general or special law to the contrary, the section of Sandy beach that is located along the Mystic Valley parkway in the town of Winchester shall be designated and known as the Senator Charles E. Shannon, Jr. Memorial Beach. The department of conservation and recreation shall erect a suitable marker bearing this designation in



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compliance with the standards of the department and any existing historic preservation statutes or guidelines.

Approved July 8, 2008

**Chapter 178. AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN OF HULL FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** Positions in the department of public works in the town of Hull shall not be subject to chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of a person holding a position in the department of public works on the effective date of this act.

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

Approved July 10, 2008

**Chapter 179. AN ACT ESTABLISHING A SICK LEAVE BANK FOR TRACEY ALBRECHT, 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 Tracey Albrecht, 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 Tracey Albrecht. Whenever Tracey Albrecht terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank. Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court.

Approved July 10, 2008

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**Chapter 180. AN ACT AUTHORIZING INCREASED FEES FOR SPECIAL DETAILS PERFORMED BY PUBLIC EMPLOYEES IN THE CITY OF SOMERVILLE.**

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

**SECTION 1.** Notwithstanding section 53C of chapter 44 of the General Laws or any other special or general law to the contrary, the city of Somerville may impose a fee not to exceed 15 per cent of the cost to the city for services performed by its employees on off-duty work details which are related to the employee's regular employment or for special detail work performed by persons where the detail is not related to regular employment.

**SECTION 2.** The fee imposed under section 1 may be increased by an additional 15 per cent of the city's cost as described in said section 1 if paid later than 21 days after the initial fee becomes due to said city.

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

Approved July 10, 2008

**Chapter 181. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWNS OF MARSHFIELD AND SCITUATE AS THE FRANCIS R. POWERS MEMORIAL BRIDGE.**

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

The bridge on the section of Julian street that spans the South river connecting the town of Marshfield to the Humarock section of the town of Scituate shall be designated and known as the Francis R. Powers memorial bridge, in memory of Francis R. Powers who was the long-time clerk of courts for Plymouth county. The department of highways shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved July 10, 2008

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**Chapter 182. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2009 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, 2008, 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 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, 2009. All sums appropriated under this act, including supplemental and deficiency budgets, shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women and handicapped persons. All officials and employees of an agency, board, department, commission or division receiving monies under this act shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons and organizations doing business with the commonwealth. Each agency, board, department, commission or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, in-service or apprenticeship training programs and all terms and conditions of employment.

**SECTION 1A.** In accordance with Articles LXIII and CVII of the Articles of Amendment to the Constitution of the Commonwealth and section 6D of chapter 29 of the General Laws, it is hereby declared that the amounts of revenue set forth in this section by source for the respective funds of the commonwealth for the fiscal year ending June 30, 2009 are necessary and sufficient to provide the means to defray the appropriations and expenditures from such funds for said fiscal year as set forth and authorized in sections 2 and 2B. The comptroller shall keep a distinct account of actual receipts from each such source by each such fund to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with the projected receipts set forth herein and to include a full statement comparing



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

Fiscal Year 2009 Revenue by Source and Budgeted Fund (in Millions)

Source	All Budgeted Funds*	General Fund	Highway Fund	School Building Trust	MBTA
Alcohol. Bev.	75.4	75.4			
Cigarettes	439.8	439.8			
Corporations	1,404.6	1,404.6			
Deeds	169.4	169.4			
Estate Inheritance	233.3	233.3			
Financial Institutions	254.0	254.0			
Income	12,739.7	12,739.7			
Insurance	420.7	420.7			
Motor Fuels	674.6	96.9	577.7		
Public Utilities	150.0	150.0			
Room Occupancy	123.2	80.1			
Sales-Regular	3098.4	1,840.4		601.0	657.0
Sales-Meals	665.1	665.1			
Sales-Motor Vehicles	514.2	302.2		101.0	111.0
Miscellaneous	3.5	3.5			
UI Surcharges	21.0				
<b>Total Consensus Tax Revenues:</b>	<b>20,986.9</b>	<b>18,875.1</b>	<b>577.7</b>	<b>702.0</b>	<b>768.0</b>
<b>SBAB Transfer</b>	<b>(702.0)</b>			<b>(702.0)</b>	
<b>MBTA Transfer</b>	<b>(768.0)</b>				<b>(768.0)</b>
<b>Pension Transfer</b>	<b>(1,465.0)</b>	<b>(1,465.0)</b>			
<b>Total Consensus Tax Revenue for Budget</b>	<b>18,051.9</b>	<b>17,410.1</b>	<b>577.7</b>	<b>0.0</b>	<b>0.0</b>
<b>Adjustments to Taxation Laws</b>					
Combined Reporting	188.0	188.0			
Conformity of Classification (Check-the-Box)	101.0	101.0			
Clarify Earned Income Credit	2.0	2.0			
<b>Adjustments Total</b>	<b>291.0</b>	<b>291.0</b>			

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Source	All Budgeted Funds*	General Fund	Highway Fund	School Building Trust	MBTA
<b>DOR Enforcement and Efficiencies</b>					
Annualized Value of Additional Auditors	60.3	60.3			
Wage Enforcement	30.0	30.0			
Cigarette Stamp Encryption	12.0	12.0			
Reclassification of Cigar Tobacco	11.0	11.0			
Elimination of Sales Tax Exemption for Pesticides	3.0	3.0			
License Revocation	7.0	7.0			
Prepaid Sales Tax on Cigarettes	10.0	10.0			
Electronic Recording of Liens	6.0	6.0			
Withholding on Real Estate Sales Tax	2.0	2.0			
Demand Notice Fee	4.0	4.0			
Late Filing Fee Increase	12.0	12.0			
<b>DOR Collection Totals</b>	<b>157.3</b>	<b>157.3</b>			
<b>Life Sciences Tax Incentives</b>					
	(10.0)	(10.0)			
<b>Total Tax Initiatives</b>	<b>438.3</b>	<b>438.3</b>			
<b>Total Taxes Available for Budget</b>					
	<b>18,490.2</b>	<b>17,848.4</b>	<b>577.7</b>		
<b>Non-Tax Revenue</b>					
Federal Reimbursements	7,070.6	7,063.2	3.6		
Departmental Revenue	2,477.1	2,113.5	265.7		
Consolidated Transfers	(111.5)	379.3	(89.0)		
<b>GRAND TOTAL</b>	<b>27,926.4</b>	<b>27,404.4</b>	<b>758.0</b>		

\* Includes revenue deposited into and transfers out of the Workforce Training Fund, Mass Tourism Fund, Inland Fish and Game Fund, and Stabilization Fund.

Non-Tax Revenue: Department Summary

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
<b>Judiciary</b>			
Supreme Judicial Court	\$2,859,859	\$0	\$2,859,859
Committee for Public Counsel	\$25,505	\$750,000	\$775,505
Appeals Court	\$471,853	\$0	\$471,853
Trial Court	\$82,178,373	\$43,000,000	\$125,178,373
Bristol District Attorney	\$254	\$0	\$254
Middlesex District Attorney	\$379	\$0	\$379
Northwestern District Attorney	\$185	\$0	\$185
Plymouth District Attorney	\$4,875	\$0	\$4,875
<b>TOTALS :</b>	<b>\$5,776</b>	<b>\$0</b>	<b>\$5,776</b>
<b>Governor's Office</b>			
Executive Office	\$8,686	\$0	\$8,686
<b>TOTALS :</b>	<b>\$8,686</b>	<b>\$0</b>	<b>\$8,686</b>
<b>Secretary of the Commonwealth</b>			
Secretary of the Commonwealth	\$211,917,790	\$80,000	\$211,997,790
<b>TOTALS :</b>	<b>\$211,917,790</b>	<b>\$80,000</b>	<b>\$211,997,790</b>
<b>Treasurer and Receiver-General</b>			
Office of the Treasurer	\$369,373,597	\$0	\$369,373,597
State Lottery Commission	\$217,746,429	\$814,528,019	\$1,032,274,448
Alcohol Beverages Control Commission	\$3,851,200	\$0	\$3,851,200
<b>TOTALS :</b>	<b>\$590,971,226</b>	<b>\$814,528,019</b>	<b>\$1,405,499,245</b>
<b>State Auditor's Office</b>			
State Auditor's Office	\$492	\$0	\$492
<b>TOTALS :</b>	<b>\$492</b>	<b>\$0</b>	<b>\$492</b>
<b>Attorney General</b>			
Office of the Attorney General	\$17,758,042	\$0	\$32,408,042
<b>TOTALS :</b>	<b>\$17,758,042</b>	<b>\$650,000</b>	<b>\$18,408,042</b>
<b>State Ethics Commission</b>			
State Ethics Commission	\$74,220	\$0	\$74,220
<b>TOTALS :</b>	<b>\$74,220</b>	<b>\$0</b>	<b>\$74,220</b>
<b>Inspector General</b>			
Office of the Inspector General	\$0	\$493,819	\$493,819
<b>TOTALS :</b>	<b>\$0</b>	<b>\$493,819</b>	<b>\$493,819</b>
<b>Office of Campaign and Political Finance</b>			
Office of Campaign and Political Finance	\$57,528	\$0	\$57,528
<b>TOTALS :</b>	<b>\$57,528</b>	<b>\$0</b>	<b>\$57,528</b>



Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
<b>Office of the State Comptroller</b>			
Office of the State Comptroller	\$500,759,489	\$0	\$500,759,489
<b>TOTALS :</b>	<b>\$500,759,489</b>	<b>\$0</b>	<b>\$500,759,489</b>
<b>Executive Office for Administration and Finance</b>			
Secretary of Administration and Finance	(\$1,744,876,154)	\$1,000,000	(\$1,743,876,154)
Massachusetts Office on Disability	\$41	\$0	\$41
Public Employee Retirement Administration	\$179	\$0	\$179
Division of Capital Asset Management and Maintenance	\$3,491,896	\$16,550,000	\$20,041,896
Bureau of State Office Buildings	\$165,397	\$0	\$165,397
Civil Service Commission	\$20,364	\$0	\$20,364
Group Insurance Commission	\$328,620,852	\$1,000,000	\$329,620,852
Division of Administrative Law Appeals	\$84,500	\$0	\$84,500
George Fingold Library	\$5,000	\$20,000	\$25,000
Department of Revenue	\$199,016,241	\$6,547,280	\$205,563,521
Appellate Tax Board	\$1,698,692	\$300,000	\$1,998,692
Human Resources Division	\$307,283	\$2,427,500	\$2,734,783
Operational Services Division	\$1,316,983	\$1,358,000	\$2,674,983
Division of Information Technology	\$11,134	\$601,850	\$612,984
<b>TOTALS :</b>	<b>(\$1,210,137,592)</b>	<b>\$29,804,630</b>	<b>(\$1,180,332,962)</b>
<b>Executive Office of Energy and Environmental Affairs</b>			
Department of Conservation and Recreation	\$24	\$0	\$24
Department of Public Utilities	\$12,657,063	\$2,375,000	\$15,032,063
Division of Energy Resources	\$738,380	\$0	\$738,380
Secretary of Environmental Affairs	\$5,516,862	\$625,000	\$6,141,862
Department of Environmental Protection	\$44,595,780	\$1,200,000	\$45,795,780
Department of Fish and Game	\$14,077,526	\$217,989	\$14,295,515
Department of Agricultural Resources	\$4,564,025	\$0	\$4,564,025
Department of Conservation and Recreation	\$14,632,408	\$10,054,826	\$24,687,234
<b>TOTALS :</b>	<b>\$96,782,068</b>	<b>\$14,472,815</b>	<b>\$111,254,883</b>

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
<b>Executive Office of Health and Human Services</b>			
Veterans Affairs	\$15,188	\$300,000	\$315,188
Secretary of Health and Human Services	\$4,198,305,420	\$225,000,000	\$4,423,305,420
Division of Health Care Finance and Policy	\$20,605,773	\$0	\$20,605,773
Mass Commission for the Blind	\$3,187,781	\$0	\$3,187,781
Mass Rehabilitation Commission	\$3,134,048	\$0	\$3,134,048
Mass Commission for the Deaf	\$174,175	\$0	\$174,175
Chelsea Soldiers' Home	\$11,256,315	\$300,661	\$11,556,976
Holyoke Soldiers' Home	\$13,068,187	\$483,514	\$13,551,701
Department of Youth Services	\$5,688,249	\$0	\$5,688,249
Department of Transitional Assistance	\$400,319,455	\$7,000,000	\$407,319,455
Department of Public Health	\$90,674,209	\$60,795,355	\$151,469,564
Department of Social Services	\$225,840,219	\$5,000,000	\$230,840,219
Department of Mental Health	\$115,737,377	\$125,000	\$115,862,377
Department of Mental Retardation	\$439,998,874	\$150,000	\$440,148,874
Office of Elder Affairs	\$1,391,556,297	\$0	\$1,391,556,297
<b>TOTALS :</b>	<b>\$6,919,561,567</b>	<b>\$299,154,530</b>	<b>\$7,218,716,097</b>
<b>Executive Office of Transportation and Public Works</b>			
Secretary of Transportation	\$772,456	\$27,344	\$799,800
Mass Aeronautics Commission	\$418,069	\$0	\$418,069
Mass Highway	\$9,590,946	\$1,000,000	\$10,590,946
Registry of Motor Vehicles	\$448,255,442	\$0	\$448,255,442
<b>TOTALS :</b>	<b>\$459,036,913</b>	<b>\$1,027,344</b>	<b>\$460,064,257</b>
<b>Board of Library Commissioners</b>			
Board of Library Commissioners	\$1,785	\$0	\$1,785
<b>TOTALS :</b>	<b>\$1,785</b>	<b>\$0</b>	<b>\$1,785</b>
<b>Executive Office of Housing and Economic Development</b>			
Department of Business and Technology	\$506	\$0	\$506
Department of Public Utilities	\$4,180,192	\$0	\$4,180,192
Department of Telecommunications and Cable	\$0	\$0	\$0
Division of Professional Licensure	\$12,170,565	\$0	\$12,170,565
Division of Standards	\$1,629,269	\$818,900	\$2,448,169
State Racing Commission	\$4,325,129	\$0	\$4,325,129
Division of Banks	\$23,940,736	\$5,000,000	\$28,940,736
Division of Insurance	\$73,207,253	\$0	\$73,207,253

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<b>Revenue Source</b>	<b>Unrestricted Non-Tax</b>	<b>Restricted Non-Tax</b>	<b>Total Non-Tax</b>
Division of Housing and Community Development	\$2,623,636	\$2,334,014	\$4,957,650
<b>TOTALS :</b>	<b>\$122,077,286</b>	<b>\$8,152,914</b>	<b>\$130,230,200</b>
<b>Executive Office of Labor and Workforce Development</b>			
Department of Labor	\$1,566,305	\$252,850	\$1,819,155
Department of Industrial Accidents	\$21,208,406	\$0	\$21,208,406
Labor Relations Commission	\$25	\$0	\$25
Board of Conciliation and Arbitration	\$92,867	\$0	\$92,867
Department of Workforce Development	\$287,189	\$0	\$287,189
<b>TOTALS :</b>	<b>\$23,154,792</b>	<b>\$252,850</b>	<b>\$23,407,642</b>
<b>Executive Office of Education</b>			
Department of Early Education and Care	\$199,477,322	\$0	\$199,477,322
Department of Elementary and Secondary Education	\$14,405,376	\$0	\$14,405,376
Board of Higher Education	\$420,417	\$0	\$420,417
University of Massachusetts	\$47,142,280	\$0	\$47,142,280
Bridgewater State College	\$3,043,997	\$0	\$3,043,997
Fitchburg State College	\$3,014,630	\$0	\$3,014,630
Framingham State College	\$2,478,160	\$0	\$2,478,160
Massachusetts College of Liberal Arts	\$371,415	\$0	\$371,415
Salem State College	\$2,979,194	\$0	\$2,979,194
Westfield State College	\$2,421,044	\$0	\$2,421,044
Worcester State College	\$2,793,692	\$0	\$2,793,692
Berkshire Community College	\$289,641	\$0	\$289,641
Bristol Community College	\$637,356	\$0	\$637,356
Cape Cod Community College	\$553,076	\$0	\$553,076
Greenfield Community College	\$318,597	\$0	\$318,597
Holyoke Community College	\$812,149	\$0	\$812,149
Mass Bay Community College	\$919,717	\$0	\$919,717
Massasoit Community College	\$832,410	\$0	\$832,410
Mount Wachusett Community College	\$421,978	\$0	\$421,978
Northern Essex Community College	\$782,537	\$0	\$782,537
North Shore Community College	\$889,664	\$0	\$889,664
Quinsigamond Community College	\$442,659	\$0	\$442,659
Springfield Technical Community College	\$1,041,234	\$0	\$1,041,234
Roxbury Community College	\$243,750	\$529,843	\$773,593



Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Middlesex Community College	\$573,085	\$0	\$573,085
Bunker Hill Community College	\$1,295,698	\$0	\$1,295,698
Massachusetts Maritime Academy	\$318	\$0	\$318
<b>TOTALS :</b>	<b>\$288,601,396</b>	<b>\$529,843</b>	<b>\$289,131,239</b>
<b>Executive Office of Public Safety and Security</b>			
Secretary of Public Safety	\$100,000	\$0	\$100,000
Chief Medical Examiner	\$488	\$1,300,000	\$1,300,488
Sex Offender Registry Board	\$245,531	\$0	\$245,531
Criminal History Systems Board	\$8,153,166	\$0	\$8,153,166
Department of State Police	\$1,974,594	\$23,966,200	\$25,940,794
Criminal Justice Training Council	\$133,049	\$1,262,500	\$1,395,549
Department of Public Safety	\$19,671,925	\$1,898,600	\$21,570,525
Department of Fire Services	\$19,617,800	\$300,000	\$19,917,800
Merit Rating Board	\$30,701	\$0	\$30,701
Military Division	\$2,021	\$400,000	\$402,021
Emergency Management Agency	\$5,891,907	\$0	\$5,891,907
Department of Corrections	\$11,841,075	\$5,600,000	\$17,441,075
Parole Board	\$304,117	\$600,000	\$904,117
<b>TOTALS :</b>	<b>\$67,966,374</b>	<b>\$35,327,300</b>	<b>\$103,293,674</b>
<b>Sheriffs</b>			
Sheriff's Department Worcester	\$17,000	\$0	\$17,000
Sheriff's Department Hampden	\$747,540	\$1,914,460	\$2,662,000
Sheriff's Department Worcester	\$169,157	\$0	\$169,157
Sheriff's Department Middlesex	\$129,050	\$1,000,000	\$1,129,050
Sheriff's Department Franklin	\$655,900	\$2,112,000	\$2,767,900
Sheriff's Department Hampshire	\$28,276	\$250,000	\$278,276
Sheriff's Department Berkshire	\$49,448	\$1,350,000	\$1,399,448
Sheriff's Department Essex	\$664,500	\$2,000,000	\$2,664,500
<b>TOTALS :</b>	<b>\$2,460,871</b>	<b>\$8,626,460</b>	<b>\$11,087,331</b>
<b>Mass Commission Against Discrimination</b>			
Massachusetts Commission Against Discrimination	\$816,400	\$2,000,054	\$2,816,454
<b>TOTALS :</b>	<b>\$816,400</b>	<b>\$2,000,054</b>	<b>\$2,816,454</b>
<b>Total Non-Tax Revenue :</b>	<b>\$8,177,410,699</b>	<b>\$1,258,850,578</b>	<b>\$9,436,261,277</b>

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 .....	\$8,294,996
0320-0010	For the operation of the clerk's office of the supreme judicial court for Suffolk county .....	\$1,283,205
0321-0001	For the operation of the commission on judicial conduct .....	\$574,398
0321-0100	For the services of the board of bar examiners .....	\$1,108,593

*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 and the house and senate committees on ways and means, no later than January 30, 2009, 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; and (g) the average number of hours spent per attorney or staff per type of case; provided further, that the committee shall submit a report to the house and senate committees on ways and means no later than January 30, 2009, on the progress of the public defender division; and provided further, that said report shall include the following: (a) the number of offices that are in operation; (b) the number of staff hired to work in the district offices; and (c) the estimated savings the commonwealth has realized from having cases assigned to public defenders as opposed to being assigned to private bar advocates .....	\$29,294,603
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 11 of said chapter 211D; provided, that not more than \$2,000,000 of the	

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	sum appropriated in this item may be expended for services rendered before fiscal year 2009 . . . . .	\$140,345,728
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 . . . . .	\$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 \$1,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2009 . . . . .	\$11,456,513
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, \$1,370,801 shall be expended for the disability benefits project, \$618,742 shall be expended for the Medicare Advocacy Project, and \$2,834,024 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 no later than January 30, 2009 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 . . . . .	\$11,070,424
0321-2000	For the operation of the mental health legal advisors committee and for certain programs for the indigent mentally ill, established pursuant to section 34E of chapter 221 of the General Laws . . . . .	\$813,797
0321-2100	For the Massachusetts correctional legal services committee . . . . .	\$985,824
0321-2205	For the expenses of the social law library located in Suffolk county . . . . .	\$2,229,671



*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 ..... \$11,614,873

*Trial Court.*

0330-0101 For the salaries of the justices of the superior court department of the trial court ..... \$10,956,826

0330-0102 For the salaries of the justices of the district court department of the trial court ..... \$21,119,998

0330-0103 For the salaries of the justices of the probate and family court department of the trial court ..... \$6,823,471

0330-0104 For the salaries of the justices of the land court department of the trial court ..... \$941,374

0330-0105 For the salaries of the justices of the Boston municipal court department of the trial court ..... \$4,016,127

0330-0106 For the salaries of the justices of the housing court department of the trial court ..... \$1,342,434

0330-0107 For the salaries of the justices of the juvenile court department of the trial court ..... \$5,452,834

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, rental of county court 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 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 other 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 such veteran, 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 changing lives through literature program; 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; and provided further, that the report shall be submitted to the victim and witness assistance board on or before January 12, 2009 . . . . . \$135,665,342

0330-0317 For the operation and expenses of the Massachusetts sentencing commission, pursuant to chapter 211E of the General Laws . . . \$246,380

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 \$75,000 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 \$60,000 shall be expended for Mediation Services of North Central Massachusetts, Inc.; provided further, that not less than \$65,000 shall be expended for the North Shore Community Mediation Program in Salem; provided further, that not less than \$65,000 shall be expended for Metropolitan Mediation Services operated by the Brookline Community Mental Health Center; 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 \$65,000 shall be expended for Framingham Court Mediation Services; provided further, that not less than \$60,000 shall be expended for the Cape Cod Dispute Resolution Center; provided further, that not less than \$65,000 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 \$65,000 shall be expended for the Middlesex Multi-door Court House Program; provided further, that not less than \$40,000 shall be expended for the Martha's Vineyard Mediation Program; provided further, that not less than \$60,000 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	\$962,768
0330-0441	For permanency mediation services in the probate and juvenile courts	\$540,000
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 30, 2009, detailing the number of court officers, per diem court officers and security personnel located in each trial court of the commonwealth	\$66,111,070
0330-3333	For the chief justice for administration and management; provided, that the chief justice may expend an amount not to exceed \$20,000,000 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 further, that any expenditures or allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means not later than 30 days before the expenditures or allocations are made; provided further, that a schedule detailing the full allotment of said \$20,000,000 shall be submitted to the house and senate committees on ways and means not later than February 2, 2009; provided further, that the only revenue available for expenditure in this item for fiscal year 2009 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 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 . . . . . \$20,000,000

0330-3334 For the chief justice for administration and management; provided, that the chief justice may expend an amount not to exceed \$23,000,000 from fees charged and collected pursuant to section 87A of chapter 276 of the General Laws; 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 not later than 30 days before the expenditures or allocations are made; provided further, that a schedule detailing the full allotment of said \$23,000,000 shall be submitted to the house and senate committees on ways and means not later than February 2, 2009; 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 . . . . . \$23,000,000

0330-3337 For additional expenses associated with the operation of the trial court; provided, that any expenditures or allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means not later than 30 days before the expenditures or allocations are made . . . . . \$21,223,059

*Superior Court Department.*

0331-0100 For the administrative office of the superior court department . . . \$6,474,623

0331-0300 For medical malpractice tribunals established in accordance with the provisions of section 60B of chapter 231 of the General Laws . . . . . \$61,471

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 . . . . . \$808,271

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 . . . . .	\$208,833
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 . . . . .	\$889,852
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 . . . . .	\$166,327
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 . . . . .	\$1,500,416
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 . . . . .	\$405,966
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 . . . . .	\$1,510,814
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 . . . . .	\$321,497
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 . . . . .	\$3,349,474
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 . . . . .	\$140,162
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 . . . . .	\$1,229,585
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 .....	\$1,127,215
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 .....	\$3,081,929
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 .....	\$1,959,336
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 .....	\$1,109,510

*District Court Department.*

0332-0100	For the administrative office of the district court department, including a civil conciliation program .....	\$951,104
0332-1100	For the first district court of Barnstable .....	\$594,883
0332-1200	For the second district court of Barnstable at Orleans .....	\$427,513
0332-1203	For the third district court of Barnstable at Falmouth .....	\$427,125
0332-1300	For the district court of northern Berkshire at Adams, North Adams and Williamstown .....	\$301,844
0332-1400	For the district court of central Berkshire at Pittsfield .....	\$465,156
0332-1500	For the district court of southern Berkshire at Great Barrington and Lee .....	\$257,272
0332-1600	For the first district court of Bristol at Taunton .....	\$782,962
0332-1700	For the second district court of Bristol at Fall River .....	\$971,218
0332-1800	For the third district court of Bristol at New Bedford .....	\$1,048,919
0332-1900	For the fourth district court of Bristol at Attleboro .....	\$647,070
0332-2000	For the district court of Edgartown .....	\$187,342
0332-2100	For the first district court of Essex at Salem .....	\$774,695
0332-2300	For the third district court of Essex at Ipswich .....	\$219,418
0332-2400	For the central district court of northern Essex at Haverhill .....	\$659,311
0332-2500	For the district court of eastern Essex at Gloucester .....	\$330,874
0332-2600	For the district court of Lawrence .....	\$1,213,889
0332-2700	For the district court of southern Essex at Lynn .....	\$893,946
0332-2800	For the district court of Newburyport .....	\$544,895
0332-2900	For the district court of Peabody .....	\$556,522
0332-3000	For the district court of Greenfield .....	\$379,044
0332-3100	For the district court of Orange .....	\$311,520



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0332-3200 For the district court of Chicopee .....	\$464,004
0332-3300 For the district court of Holyoke .....	\$485,820
0332-3400 For the district court of eastern Hampden at Palmer .....	\$334,248
0332-3500 For the district court of Springfield .....	\$1,891,379
0332-3600 For the district court of western Hampden at Westfield .....	\$319,072
0332-3700 For the district court of Hampshire at Northampton .....	\$686,121
0332-3800 For the district court of eastern Hampshire at Belchertown .....	\$183,590
0332-3900 For the district court of Lowell .....	\$1,336,300
0332-4000 For the district court of Somerville .....	\$1,251,585
0332-4100 For the district court of Newton .....	\$406,179
0332-4200 For the district court of Marlborough .....	\$538,054
0332-4300 For the district court of Natick .....	\$464,004
0332-4400 For the first district court of eastern Middlesex at Malden .....	\$636,796
0332-4500 For the second district court of eastern Middlesex at Waltham ...	\$540,860
0332-4600 For the third district court of eastern Middlesex at Cambridge ...	\$1,355,914
0332-4700 For the fourth district court of eastern Middlesex at Woburn .....	\$748,334
0332-4800 For the first district court of northern Middlesex at Ayer .....	\$408,513
0332-4900 For the first district court of southern Middlesex at Framingham ...	\$857,991
0332-5000 For the district court of central Middlesex at Concord .....	\$519,363
0332-5100 For the district court of Nantucket .....	\$133,383
0332-5200 For the district court of northern Norfolk at Dedham .....	\$614,869
0332-5300 For the district court of East Norfolk at Quincy .....	\$1,735,462
0332-5400 For the district court of western Norfolk at Wrentham .....	\$517,430
0332-5500 For the district court of southern Norfolk at Stoughton .....	\$670,183
0332-5600 For the municipal court of Brookline .....	\$382,711
0332-5700 For the district court of Brockton .....	\$1,234,736
0332-5800 For the second district court of Plymouth at Hingham .....	\$705,899
0332-5900 For the third district court of Plymouth at Plymouth .....	\$876,742
0332-6000 For the fourth district court of Plymouth at Wareham .....	\$739,036
0332-6300 For the district court of Chelsea; provided, that notwithstanding the provisions of any general or special law to the contrary, said district court shall be the permanent location for the northern trial session to handle six person jury cases; provided further, that all personnel within said district court whose duties relate to said northern trial session shall report to the clerk magistrate of said district court; and provided further, that the clerk magistrate shall utilize whatever space within the facility-at-large he deems necessary to comply with S.J.C. Rule 3:12, Canon 3(A)6 .....	\$921,194
0332-6900 For the central district court of Worcester .....	\$1,700,739
0332-7000 For the district court of Fitchburg .....	\$556,835

0332-7100 For the district court of Leominster . . . . .	\$438,062
0332-7200 For the district court of Winchendon . . . . .	\$152,764
0332-7300 For the first district court of northern Worcester at Gardner . . . . .	\$389,673
0332-7400 For the first district court of eastern Worcester at Westborough . . .	\$442,571
0332-7500 For the second district court of eastern Worcester at Clinton . . . . .	\$514,025
0332-7600 For the district court of southern Worcester at Dudley . . . . .	\$526,664
0332-7700 For the second district court of southern Worcester at Uxbridge . . .	\$350,664
0332-7800 For the third district court of southern Worcester at Milford . . . . .	\$335,314
0332-7900 For the district court of western Worcester at East Brookfield . . . . .	\$350,435

*Probate and Family Court Department.*

0333-0002 For the administrative office of the probate and family court department . . . . .	\$1,358,615
0333-0100 For the Barnstable probate court . . . . .	\$1,019,699
0333-0150 For the operation of a child and parents program in the Barnstable probate court . . . . .	\$82,582
0333-0200 For the Berkshire probate court . . . . .	\$535,524
0333-0300 For the Bristol probate court . . . . .	\$1,682,652
0333-0400 For the Dukes probate court . . . . .	\$127,077
0333-0500 For the Essex probate court . . . . .	\$1,356,009
0333-0600 For the Franklin probate court . . . . .	\$539,848
0333-0700 For the Hampden probate court . . . . .	\$2,840,355
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 . . . . .	\$41,292
0333-0800 For the Hampshire probate court . . . . .	\$670,284
0333-0900 For the Middlesex probate court . . . . .	\$3,508,883
0333-0911 For the Middlesex probate court family services clinic . . . . .	\$201,286
0333-0913 For the Middlesex community access program of community outreach and education; provided, that the program shall be targeted at low income persons who experience educational and language barriers to court access; and provided further, that the program shall be administered by the register of probate of Middlesex county . . . . .	\$199,164
0333-1000 For the Nantucket probate court . . . . .	\$182,395
0333-1100 For the Norfolk probate court . . . . .	\$1,574,249
0333-1111 For the Norfolk probate court family services clinic . . . . .	\$145,200
0333-1200 For the Plymouth probate court . . . . .	\$1,411,954
0333-1300 For the Suffolk probate court . . . . .	\$2,327,106

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0333-1313	For the Suffolk probate community access program of community outreach and education; provided, that said program shall be targeted at low income persons who experience educational and language barriers to court access; and provided further, that said program shall be administered by the register of probate of Suffolk county .....	\$259,708
0333-1400	For the Worcester probate court .....	\$1,770,581
0333-1411	For the Worcester probate court family services clinic .....	\$196,716

*Land Court Department.*

0334-0001	For the operation of the land court .....	\$2,479,415
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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 ...	\$3,308,288
0335-0100	For the Brighton division of the Boston municipal court department .....	\$338,730
0335-0200	For the Charlestown division of the Boston municipal court department .....	\$241,626
0335-0300	For the Dorchester division of the Boston municipal court department .....	\$1,193,837
0335-0400	For the East Boston division of the Boston municipal court department .....	\$605,214
0335-0500	For the Roxbury division of the Boston municipal court department .....	\$1,159,830
0335-0600	For the South Boston division of the Boston municipal court department .....	\$423,149
0335-0700	For the West Roxbury division of the Boston municipal court department .....	\$761,326

*Housing Court Department.*

0336-0002	For the administrative office of the housing court department .....	\$107,178
0336-0100	For the Boston housing court .....	\$969,476
0336-0200	For the western division of the housing court .....	\$718,895
0336-0300	For the Worcester county housing court .....	\$721,866
0336-0400	For the southeastern division of the housing court .....	\$1,262,163
0336-0500	For the northeastern division of the housing court .....	\$676,227

*Juvenile Court Department.*

0337-0002	For the administrative office of the juvenile court department .....	\$929,438
0337-0100	For the Suffolk county juvenile courts .....	\$1,297,986



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0337-0200	For the Bristol juvenile court	\$1,296,549
0337-0300	For the Hampden county juvenile courts; provided, that \$145,841 shall be expended for the CASA program in the Springfield Juvenile Courts	\$1,347,196
0337-0400	For the Worcester county juvenile courts; provided, that \$72,920 shall be expended for the CASA program in the Worcester Juvenile Court	\$1,124,994
0337-0500	For the Barnstable county juvenile court, including the Barnstable county juvenile court located in the town of Plymouth	\$765,787
0337-0600	For the Essex county juvenile courts; provided, that \$100,000 shall be expended for the CASA program in the Lawrence Juvenile Court	\$1,183,645
0337-0700	For the Hampshire and Franklin counties juvenile courts; provided, that \$77,478 shall be expended for the Franklin/Hampshire CASA program, including the Northampton, Greenfield, Orange, and Ware District Courts	\$712,344
0337-0800	For the Plymouth county juvenile courts; provided, that \$72,920 shall be expended for the CASA program in the Plymouth County Juvenile Courts	\$820,893
0337-0900	For the Berkshire county juvenile courts; provided, that \$54,690 shall be expended for a Berkshire CASA program, in the Berkshire County Juvenile Courts	\$518,552
0337-1000	For the Middlesex county juvenile courts	\$1,241,649
0337-1100	For the Norfolk county juvenile courts	\$952,028

*Office of the Commissioner of Probation.*

0339-1001	For the office of the commissioner of probation; provided, that notwithstanding 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, 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 not less	
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than \$2,771,000 shall be expended for costs associated with full implementation of chapters 303 and 418 of the acts of 2006 to ensure effective supervision of probationers who are monitored through global positioning system bracelets; provided further, that not less than \$100,000 shall be expended for the central Massachusetts probation training academy in the town of Clinton for the purpose of maintaining current staffing levels or providing additional staff at the discretion of the commission; provided further, that no funds shall be expended from this line item to cover the costs of building leases; 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 department's 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 . . . . . \$142,372,102

0339-1003 For the operation of the trial court office of community corrections, including the costs of personnel; provided, that no funds shall be expended from this item to cover the costs of building leases . . . . . \$7,776,254

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 such programs in Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties in fiscal year 2009; 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 such programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that such agreements and memoranda shall be entered into at the direction of 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, 2009; 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 ..... \$19,316,186

*Office of the Jury Commissioner*

0339-2100 For the office of the jury commissioner in accordance with chapter 234A of the General Laws ..... \$2,702,029

*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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the 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 the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that no assistant district attorney shall

be paid an annual salary of less than \$37,500; provided further, that not more than \$100,000 shall be expended for additional support of the Gun Prosecution Task Force, also known as the Gun Court; provided further, that not more than \$150,000 shall be expended for support of a second Grand Jury for Suffolk County to investigate unsolved homicides, otherwise known as the Special Homicide Grand Jury; provided further, that not more than \$230,000 shall be expended for the cost of rent increases and property tax pass through increases at One Bulfinch Place; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer . . . . . \$16,593,097

0340-0101 For the overtime costs of state police officers assigned to the Suffolk district attorney's office . . . . . \$384,537  
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 executive director of the Massachusetts district attorneys' association no later than February 2 , 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009,

detailing the office’s use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office’s special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer . . . . . \$14,245,849

0340-0201 For the overtime costs of state police officers assigned to the Middlesex district attorney’s office . . . . .	\$560,558
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 executive director of the Massachusetts district attorneys’ association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the



report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; and provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program . . . . \$8,751,724

0340-0301 For the overtime costs of state police officers assigned to the Eastern district attorney's office . . . . . \$547,389

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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; provided further, that not more than \$45,000 shall be expended for the Victim Survivor Care Program at Ann Maria College; and provided further, that at least 30 days

	before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer .....	\$9,250,428
0340-0401	For the overtime costs of state police officers assigned to the Worcester district attorney's office .....	\$448,786
	General Fund .....	11.80%
	Highway Fund .....	88.20%
0340-0410	For the analysis 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund



in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer . . . . \$8,328,979

0340-0501 For the overtime costs of state police officers assigned to the Hampden district attorney's office . . . . .	\$359,681
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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in said fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; provided further, that not less than \$150,000 shall be expended for the salaries and expenses of a children's advocacy project; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer . . . . \$5,185,922

0340-0601 For the overtime costs of state police officers assigned to the Hampshire/Franklin district attorney's office . . . . . \$319,357

*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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office

in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer . . . . \$8,529,225

0340-0701 For the overtime costs of state police officers assigned to the Norfolk district attorney's office . . . . . \$463,770

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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney

	shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer . . . . .	\$7,399,913
0340-0801	For the overtime costs of state police officers assigned to the Plymouth district attorney's office . . . . .	\$466,522
	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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys'

association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer; and provided further, that not less than \$150,000 shall be expended for the Katie Brown domestic violence prevention program for the provision of classroom-based educational programs in schools within Bristol county to be administered by the Bristol county district attorney, to prevent relationship violence . . . . . \$7,701,237

0340-0901 For the overtime costs of state police officers assigned to the Bristol district attorney's office . . . . . \$354,165

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 further, that 2 prosecutors and administrative support shall be provided to the Cape Cod offender management task force; provided that, \$125,000 shall be expended to support the sex offender management unit; provided further, that not more than \$20,000 shall be expended for the Cape and Islands Child Advocacy Center at Children's Cove in Hyannis; provided further, that the office shall submit reports to the executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district,



juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; 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 no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that the office shall submit a report to the executive director of the Massachusetts' district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer ..... \$3,763,148

0340-1001 For the overtime costs of state police officers assigned to the Cape and Islands district attorney's office ..... \$302,521

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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2008 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that \$150,000 shall be expended for the operation and management of the Berkshire County Drug Task Force; 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 executive director of the Massachusetts district attorneys' association no later than February 2, 2009, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2006, 2007 and 2008; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2009; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 2, 2009, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program;

(b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer		\$3,665,579
0340-1101 For the overtime costs of state police officers assigned to the Berkshire district attorney's office		\$233,484
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 2009 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 the department shall work in conjunction with the disabled persons protection commission and the 11 district attorneys offices to prepare a report that shall include, but not be limited to, the following: (a) the number of abuse cases that are referred to each said district attorney's office for further investigation; (b) the number of said referrals resulting in the filing of criminal charges, delineated by type of charge; (c) the number of cases referred to each said district attorneys office that remain open as of the date for submission of said report; and (d) the number of cases resulting a criminal prosecution, and the disposition of each such prosecution; provided further, that said report shall be submitted to the house and senate committees on ways and means on or before March 15, 2009; 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 no later than January 30, 2009; 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 2009 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; provided further, that the association shall submit a report to the house and senate committees on ways and means no later than January 31, 2009, detailing, by district attorney office, all sources of revenue, including, but not limited to, federal and state grants that were received in fiscal year 2008, and the amount of each source of revenue; provided further, that the association shall work in conjunction with the 11 district attorney offices to prepare and submit a report to the house and senate committees on ways and means no later than March 1, 2009, summarizing the number and types of criminal cases managed or prosecuted by all district attorney offices in the calendar year 2008 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that the association shall work in conjunction with the 11 district attorney offices to prepare and submit a report to the house and senate committees on ways and means no later than

	March 1, 2009, detailing all district attorney offices' use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; and 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 in fiscal years 2006, 2007, and 2008; (b) how the funds were used in those fiscal years; and (c) balance of the trust fund as of January 1, 2009 . . . . .	\$2,014,832
0340-2117	For the retention of assistant district attorneys with more than 3 years of experience; provided, that the Massachusetts District Attorneys Association shall transfer funds to the AA object class in each of the 11 district attorney offices in the commonwealth; provided further, that the association shall develop a formula for distribution of the funds; provided further, that funds distributed from this item to the district attorneys' offices shall be used for retention purposes and shall not be transferred out of the AA object class; provided further, that not more than \$100,000 shall be distributed to any 1 district attorney's office; provided further, that the association shall submit a report to the house and senate committees on ways and means not later than December 1, 2008 detailing the following: (1) the formula used to distribute the funds; (2) the amount given to each district attorney's office; (3) the number of assistant district attorneys from each office who received funds from this item; and (4) the success of the retention initiative in each office; and provided further, that no funds shall be expended on the administrative costs of the association . . . . .	\$500,000
0340-8908	For the costs associated with maintaining the Massachusetts District Attorneys Association's wide area network . . . . .	\$1,362,600

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 funds may be expended for the governor's commission on mental retardation; and provided further, that the advisory

	council on Alzheimer diseases 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 2009 . . . .	\$5,564,771
0411-1001	For the operation of the development coordinating council . . . . .	\$246,720
0411-1002	For a contract with the Massachusetts Service Alliance to operate the commonwealth corps program . . . . .	\$3,000,000
0411-1003	For costs associated with maintaining and enhancing the commonwealth's Washington, DC office for the purpose of better coordinating all activities and programs that receive or may potentially receive federal funds or are regulated by federal agencies . . . . .	\$453,292
0411-1005	For the operation of the office of the child advocate . . . . .	\$300,000

**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 and compensation rates and lengths of service for each employee; provided further, that the office shall submit the report not later than February 2, 2009, to the house and senate committees on ways and means; 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 and 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 secretary of state or the records conservation board; and provided further, that those regulations shall be issued not later than June 30, 2009 . . . . .	\$7,328,088
0511-0001	The secretary of state 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	For the secretary of state, acting on behalf of the commonwealth; provided, that the secretary may sell, transfer or license the division of corporations' software and related documents pertaining to its web-based searching and filing applications, including uniform commercial code software, developed by the department of the secretary and copyrighted by it to other states, multi-state or regional associations or other sovereign governments on such terms or conditions as, in his sole discretion, reasonably compensates the commonwealth for its interests; provided further, that the secretary may retain and expend revenues collected from the sales, licensure or user agreements in an amount not to exceed \$50,000 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 secretary of state may accept credit and debit cards from individuals and corporations filing documents with the department . . . . .	\$50,000
0511-0200	For the operation of the state archives division . . . . .	\$550,353
0511-0230	For the operation of the records center . . . . .	\$154,311
0511-0250	For the operation of the archives facility . . . . .	\$481,881
0511-0260	For the operation of the commonwealth museum . . . . .	\$959,755
0511-0270	For the secretary of state who may contract with the University of Massachusetts Donahue Institute to provide the commonwealth with technical assistance on United States census data and to prepare annual population estimates . . . . .	\$800,000
0511-0420	For the operation of the address confidentiality program . . . . .	\$163,269
0517-0000	For the printing of public documents . . . . .	\$909,008
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; provided further, that the secretary shall submit a report to the house and senate committees on ways and means not later than February 2, 2009, 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; and provided further, that the secretary shall investigate issues relative to preservation and storage of vital municipal records in cities and towns in the commonwealth and shall report to the general court by June 30, 2009 . . . . . \$8,300,543

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 February 2, 2009 . . . . . \$6,156,294

0524-0000 For providing information to voters . . . . . \$1,932,807

0526-0100 For the operation of the Massachusetts historical commission . . . \$1,070,676

0527-0100 For the operation of the ballot law commission . . . . . \$12,380

0528-0100 For the operation of the records conservation board . . . . . \$39,459

0540-0900 For the registry of deeds located in Lawrence in the former county of Essex . . . . . \$1,312,644

0540-1000 For the registry of deeds located in Salem in the former county of Essex . . . . . \$3,488,372

0540-1100 For the registry of deeds in the former county of Franklin . . . . . \$579,706

0540-1200 For the registry of deeds in the former county of Hampden . . . . \$2,173,462

0540-1300 For the registry of deeds in the former county of Hampshire . . . . \$608,265

0540-1400 For the registry of deeds located in Lowell in the former county of Middlesex . . . . . \$1,436,869

0540-1500 For the registry of deeds located in Cambridge in the former county of Middlesex . . . . . \$3,719,768

0540-1600 For the registry of deeds located in Adams in the former county of Berkshire . . . . . \$331,237

0540-1700 For the registry of deeds located in Pittsfield in the former county of Berkshire . . . . . \$563,922

0540-1800 For the registry of deeds located in Great Barrington in the former county of Berkshire . . . . . \$278,861

0540-1900 For the registry of deeds in the former county of Suffolk . . . . . \$2,319,509

0540-2000 For the registry of deeds located in Fitchburg in the former county of Worcester . . . . . \$863,722

0540-2100 For the registry of deeds located in the city of Worcester in the former county of Worcester . . . . . \$2,788,908

**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 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 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 30, 2009; provided further, that up to \$3,600,000 may be expended for the payment of bank fees; and provided further, that the treasurer's office shall pay half of the administrative costs of the municipal finance oversight board from this item ..... \$11,132,804
- 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 1 chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided further, that said commission shall 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 ..... \$2,138,720
- 0610-0060 For the costs associated with the investigation and enforcement division of the alcoholic beverages control commission's implementation of the enhanced liquor enforcement programs, known as Safe Campus, Safe Holidays, Safe Prom,



	and Safe Summer; provided, that funds from this appropriation shall not support other operating costs of item 0610-0050; and provided further, that said commission shall submit a report to the house and senate committees on ways and means not later than March 2, 2009 detailing the results of said program .....	\$350,000
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 .....	\$25,000
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; and provided further, that funds available in fiscal year 2008 shall be available for expenditure until June 30, 2009 .....	\$5,159,080
0611-1000	For bonus payments to war veterans .....	\$50,000
0611-1010	For the cost of life insurance premiums for National Guard members pursuant to section 88B of chapter 33 of the General Laws .....	\$1,700,000
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 .....	\$30,300,000
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 .....	\$2,200,000

*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; provided that the Treasurer's office shall provide immediate written notification to the secretary of administration and finance and the house and senate committees	
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on ways and means upon the expenditure of the funds  
appropriated herein ..... \$200,000

*Commission on Firefighters' Relief.*

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

*Lottery Commission.*

0640-0000 For the operation of the state lottery commission and arts lottery;  
provided, that no funds shall be expended from this item for  
any costs associated with the promotion or advertising of  
lottery games; provided further, that the commission shall  
review potential initiatives to increase lottery revenues  
including, but not limited to: (a) the viability of implementing  
a lottery bond program in the Commonwealth; and (b) an  
estimate of possible revenues associated with increased price  
points regarding instant tickets; provided further, that the  
results of said review shall be reported to the secretary of  
administration and finance and the chairs of the house and  
senate committees on ways and means no later than  
December 1, 2008; provided further, that the state lottery  
commission shall perform a study of programs to ensure  
responsible gaming habits for consumers; provided further,  
that the commission shall provide results of the study to the  
chairpersons of the house and senate ways and means  
committees not later than December 31, 2008; 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 ..... \$81,152,622

0640-0001 For the operation of the state lottery commission; provided, that  
the commission may seek revenue from corporate advertising  
for non-lottery products on 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  
monitor games; provided, that any sums expended on promo-  
tional 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 . . . \$4,175,484
- 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 the lottery commission may continue to develop regional environmental awareness events to limit the number of discarded instant tickets that become litter; provided further, that not later than November 15, 2008, the treasurer shall submit a report to the secretary of administration and finance and the chairpersons of the house and senate ways and means committees on the anti-litter program and its effectiveness since it was developed; 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 . . . \$75,000
- 0640-0096 For the purpose of the commonwealth’s fiscal year 2009 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 . . . \$367,011

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 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; provided further, that a grant made under this program shall not exceed \$100,000; 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; provided further, that the Local Cultural Council Grant Program provide for a minimum grant of \$4,000 per municipality; and provided further, that not less than \$350,000 shall be expended to continue the Cultural Tourism Initiative under the Massachusetts Cultural Council, which shall provide matching funds for marketing programs created through regional or local partnerships between tourism professional and nonprofit cultural organizations through 4 pilot programs to be created in 4 different regions of the state ..... \$12,658,827

*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, 2009, 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, 2009; 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 funds . . . . . \$1,806,346,000

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 . . . . .	\$102,161,000
	Highway Fund . . . . .	100.0%
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 and for the payment to the United States pursuant to section 148 of the Internal Revenue Code of 1986 of any rebate amount or yield reduction payment owed with respect to any bonds or notes or other obligations of the commonwealth; 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, 2009 shall be charged to the various funds or to the General Fund or Highway Fund debt service reserves . . . . .	\$28,728,000
0699-9101	For the purpose of depositing with the trustee under the trust agreement authorized in section 10 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 . . . . .	\$45,664,000

*Department of Veterans' Services.*

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 the department may expend funds for the Glory 54th Brigade; provided further, that not less than \$25,000 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 memorial located in the Charlestown navy yard; provided further, that not less than \$100,000 shall be expended for the World War II Memorial at Bell Rock Memorial Park in Malden; provided further, that not less than \$25,000 shall be provided for reimbursing reasonable expenses incurred in



carrying out the responsibilities of the special commission relative to the hidden wounds of war on Massachusetts service members established by chapter 1 of the resolves of 2008; provided further, that the secretary of veterans' affairs shall submit a report to the joint committee on veterans' and federal affairs and the house and senate committees on ways and means not later than December 31, 2008, on the secretariat's implementation of and the outreach efforts of the "welcome home bill"; and provided further, that the report shall include the participation rates for service, hindrances to enrollment for the program, and recommendations, including any necessary statutory or other changes to increase the number of service men and women who apply for such service . . . . . \$2,338,552

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 these centers shall also provide services to veterans who were discharged after September 11, 2001, and their families; provided further, that not less than \$367,422 shall be obligated for a contract with the Montachusett Veterans Outreach Center in the city of Gardner; provided further, not less than \$228,771 shall be expended for the Veterans Benefits Clearing House in the Roxbury section of Boston; provided further, that not less than \$200,000 shall be obligated for a contract with the Puerto Rican Veterans Association of Massachusetts, Inc., in the city of Springfield; provided further, that not less than \$200,000 may be expended for outreach and counseling to newly-returned Massachusetts veterans in support of Operation Iraqi Freedom and Operation Enduring Freedom; provided further, that not less than \$150,000 shall be expended for the Worcester Veterans Outreach Center; provided further, that not less than \$150,000 shall be expended for the Nathan Hale Foundation of Plymouth to assist veterans with transportation; provided further, that not less than \$131,500 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 \$106,102 shall be expended for the North Shore Veterans Counseling Center;

provided further, that not less than \$100,000 shall be expended for veteran's services to be administered by the Cape Community Health Center of Cape Cod; provided further, that not less than \$100,000 shall be obligated for a contract with the Veterans Northeast Outreach Center in the city of Haverhill; provided further, that not less than \$100,000 be obligated for the Boston metropolitan area for a contract with the Puerto Rican Veterans Association of Massachusetts, Inc.; provided further, that not less than \$100,000 shall be expended to United Veterans of America for the purpose of providing services to homeless veterans in Berkshire County; provided further, that not less than \$100,000 shall be expended for the Veterans Association of Bristol County in Fall River; 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 \$70,000 shall be expended for the Mason Square Veterans Outreach Center in the city of Springfield; provided further, that not less than \$50,000 shall be expended for the Middleborough Veteran Outreach Center; provided further, that not less than \$50,000 shall be expended for the 54th Massachusetts Volunteers and the Colored Ladies; and provided further, that not less than \$30,000 shall be expended for the oral history project at the Morse Institute Library in Natick		\$2,389,748
1410-0015	For the women veterans' outreach program	\$50,000
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 \$652,395 shall be obligated for a contract with the Southeastern Massachusetts Veterans Housing Program, Inc., in the city of New Bedford; provided further, that not less than \$625,105 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 \$405,500 shall be obligated for contracts with the Veteran Homestead in the city of Leominster and the Veteran Homestead in the town of Fitchburg; provided further, that not less than \$220,000 shall be obligated for a contract with the United Veterans of America shelter in the town of Leeds; 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 \$190,000 shall be expended for a contract with Habitat P.L.U.S. in the city of Lynn; provided further, that not less than \$100,350 shall be expended for the Veterans Benefits Clearing House in the Dorchester section of Boston; provided further, that not less than \$80,000 shall be obligated for a contract with the Veterans Northeast Outreach Center in the city of Haverhill for homelessness services; provided further, that not less than \$75,000 shall be expended for a contract with the Springfield Bilingual Veterans Outreach Center for the operation and maintenance of a homeless veterans transition house located in the city of Springfield; provided further, that not less than \$73,350 shall be expended under contract for the Veterans Benefits Clearing House in the Roxbury section of Boston; 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 homeless veterans transitional housing units at the YMCA of Springfield; provided further, that not less than \$42,000 shall be obligated for a contract with the Turner House located in the town of Williamstown; provided further, that not less than \$37,350 shall be obligated for a contract with the Homestead in the town of Hyannis; and provided further, that not less than \$25,000 shall be expended for transitional services at Our Neighbor's Table in Amesbury . . . \$2,827,430

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 . . . . . \$2,278,466

1410-0300 For the payment of annuities to certain disabled veterans and the parents and un-remarried spouses of certain deceased veterans; provided, that the 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 2009 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 . . . \$18,524,424

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 veterans' services shall continue a training program for veterans' agents and directors of veterans' services in cities and towns; provided further, that the department of veterans' services shall provide such training in several locations across the commonwealth including, but not limited to, providing training programs at the Massachusetts Veterans' Service Officers Association statewide training conferences; 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 . . . . . \$20,904,223

1410-0630 For the administration of the veterans' cemeteries in the towns of Agawam and Winchendon . . . . . \$912,670

**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 .....	\$16,317,826
0710-0100	For the operation of the division of local mandates .....	\$650,162
0710-0200	For the operation of the bureau of special investigations; provided, that the office 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 .....	\$1,928,775
0710-0225	For the operation of the Medicaid Audit Unit within the Division of Audit Operations in an effort to prevent and to identify fraud and abuse in the MassHealth system; provided, that the federal reimbursement for any expenditure from this line item shall not be less than 50 per cent; and provided further, that the division shall submit a report no later than December 1, 2008 to the house and senate committee ways and means detailing all findings on activities and payments made through the MassHealth system .....	\$859,745

**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	
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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; provided further, that not more than \$250,000 shall be expended for a safe neighborhood initiative in the Grove Hall area of Boston; 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 no less than \$200,000 be expended for the Dorchester Youth Collaborative Safe City Initiative; 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; and provided further, that \$50,000 shall be expended for the Trauma Intervention Program of Merrimack Valley . . . . \$27,410,277

0810-0004 For compensation to victims of violent crimes; provided, that notwithstanding 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 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 . . . \$2,188,340

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 . . . . . \$541,201

Highway Fund . . . . .	88.20%
General Fund . . . . .	11.80%

0810-0013 The office of the attorney general may expend for a false claims program an amount not to exceed \$650,000 from revenues collected from enforcement of the false claims act; provided,

	that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ...	\$650,000
0810-0014	For the operation of the department of public utilities proceedings unit within the office of attorney general, 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 under said section 11E of said chapter 12 of the General Laws, shall equal 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 the Federal Energy Regulatory Commission on behalf of Massachusetts ratepayers .....	\$2,355,145
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 .....	\$3,067,021
0810-0045	For the labor law enforcement program pursuant to 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 . . . . .	\$3,576,934
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; provided further, that not less than \$250,000 shall be expended for costs associated with health insurance rate hearings; 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 . . . . .	\$1,664,942
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 \$438,506 . . . . .	\$438,506
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 \$284,456; provided further, that the attorney general shall investigate and prosecute, when 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 . . . . .	\$284,456

*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 16, 2009 . . . . .	\$610,100
0840-0101	For the salaries and administration of the SAFEPLAN advocacy program, to be administered by the Massachusetts office of victim assistance; provided, that the office shall submit to the	



house and senate committees on ways and means, not later than February 3, 2009, a report detailing the effectiveness of contracting for the program including, but not limited to, the number and type of incidents to which the advocates responded, the type of services and service referrals provided by the domestic violence advocates, the cost of providing such services and the extent of coordination with other service providers and state agencies ..... \$789,788

STATE ETHICS COMMISSION.

0900-0100 For the operation of the state ethics commission ..... \$1,782,433

OFFICE OF THE INSPECTOR GENERAL.

0910-0200 For the operation of the office of the inspector general ..... \$2,721,715  
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 ..... \$1,285,141

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION.

0940-0100 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, 2005; provided, that on or before November 3, 2008, 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 num-

ber of the 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 2, 2009; provided further, that the commission shall identify in the 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 3, 2008, 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 the report the total number of new cases filed in fiscal year 2008 and the total number of cases closed by the commission in fiscal year 2008; provided further, that funds made available in this item shall be in addition to funds available in item 0940-0101; 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 . . . . . \$2,732,903

0940-0101 For the Massachusetts commission against discrimination which may expend not more than \$1,930,054 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 2009 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; and 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 .....	\$1,930,054
0940-0102 For the Massachusetts commission against discrimination which may expend not more than \$70,000 from revenues collected from fees charged for the training and certification of diversity trainers fo r the operation of the discrimination prevention certification program .....	\$70,000

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, 2009, 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 and the full-year estimate of revenues and revenues collected; provided further, that notwithstanding 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 in which a reporting requirement is stipulated within such item and which report is not filed within 10 days of the stated due date; provided further, that all amounts deducted shall be deposited into the General Fund and the comptroller shall notify the house and senate committees on ways and means of all amounts so deducted; provided further, that notwithstanding 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 such 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 item; and provided further, that the comptroller shall submit a report on such projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws . . . . . \$9,065,602

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Office of the Secretary of Administration and Finance.*

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 relevant 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 item, 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 labor and workforce development on or before December 1, 2008; 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 the secretary of administration and finance, in conjunction with the trial court, the executive office of health and human services, the division of capital asset management and maintenance, the bureau of state office buildings and the division of energy resources, shall submit a report to the house and senate committees on ways and means relative to the commonwealth's energy costs, which shall include, but not be limited to, the following: (a) energy consumption and costs incurred by commonwealth-owned or operated facilities, including the state house, state office buildings, hospitals, courthouses, correction facilities and related properties; (b) cost saving initiatives relating to energy consumption and procurement; (c) the energy consumption and costs for all vehicles operated

	by the commonwealth and its subsidiary secretariats and agencies; and (d) the current status of the state's energy infrastructure and plans for either replacement or conversion of existing systems; provided further, that the report shall be submitted not later than January 26, 2009; 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 . . . . .	\$3,826,821
1100-1200	For the executive office for administration and finance to carry out expanded responsibilities associated with an analysis of the commonwealth's capital planning, the development of performance budgeting and improving the efficiency of state government . . . . .	\$500,000
	<i>Division of Capital Asset Management and Maintenance.</i>	
1102-3205	The division may expend for the maintenance and operation of the Massachusetts information technology center an amount not to exceed \$7,800,000 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, as reported in the state accounting system . . . . .	\$7,800,000
1102-3214	For the state transportation building; provided, that the division may expend revenues collected up to a maximum of \$7,600,000 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 . . . . .	\$7,600,000



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- 1102-3231 For the Springfield state office building; provided, that the division may expend not more than \$850,000 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 . . . . . \$850,000
- 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; provided further, that only expenses, including staffing, incurred to implement and operate the certification program shall be funded from this item; 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 . . . . . \$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 . . . . . \$6,843,449
- 1102-3302 For the purposes of utility costs and associated contracts for the properties managed by the bureau of state office buildings . . . \$7,485,633
- 1102-3306 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 . . . . . \$774,135

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1102-3307 For state house accessibility coordination, including communica-  
tions access to public hearings and meetings ..... \$245,824

*Office on Disability.*

1107-2400 For the office on disability ..... \$759,477

*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 no 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: (a) the number of claims found  
to be substantiated; (b) the number of claims found to be  
unsubstantiated; and (c) 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  
capable of being recorded, that all persons who call the  
hotline are immediately informed that all calls are routinely  
recorded and that each such person is provided with the  
opportunity to elect that the call not be recorded ..... \$2,328,012

*Civil Service Commission.*

1108-1011 For the civil service commission; provided, that the General Fund  
shall be reimbursed for the appropriation herein through a fee  
charged on a per claim basis; provided further, that said  
commission shall develop and implement regulations to  
implement said reimbursement to the General Fund; and  
provided further, that the civil service commission shall have  
the power to assess a fee upon the appointing authority when  
inappropriate action has occurred ..... \$542,613

*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 ..... \$3,077,738

1108-5200 For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 2009; provided, that notwithstanding any general or special law to the contrary, funds in this item shall not be available during the accounts-payable period of fiscal year 2009, and any unexpended balance in this item shall revert to the General Fund on June 30, 2009; provided, that the secretary of administration and finance shall charge the division of unemployment assistance and other departments, authorities, agencies and divisions, which have federal or other funds allocated to them for this purpose, for that portion of insurance premiums and plan costs as the secretary determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; provided further, that funds may be expended from this item for the commonwealth's share of group insurance premium and plan costs provided to employees and retirees in prior fiscal years; 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 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 the premiums for active state employees hired after June 30, 2003, and their dependents shall be 80 per cent; provided further, that the commission shall notify the house and senate committees on ways and means by March 15 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year; and provided further, that the group insurance commission may pay premium and plan costs for municipal employees and retirees who are enrolled in the group insurance commission's health plans pursuant to the commission's regulations . . . . . \$830,933,764

1108-5201 For the costs incurred by the group insurance commission associated with providing municipal health insurance coverage pursuant to section 19 of chapter 32B of the General Laws; provided, that the commission may expend revenues in an amount not to exceed \$1,000,000 from the revenue received from administrative fees associated with providing municipal health insurance coverage pursuant to said section 19 of said chapter 32B; 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 commission 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 . . . . . \$1,000,000

1108-5350 For elderly governmental retired employee premium payments . . . . \$714,237

1108-5400 For the costs of the retired municipal teachers' premiums and the audit of such premiums . . . . . \$84,636,654

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 ..... \$7,366,759

*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 the division shall maintain, to the fullest extent practicable, a complete physical and technological separation from any agency, department, board, commission or program whose decisions, determinations or actions may be appealed to it; provided further, that every decision issued by a commissioner or other head of agency, or designee, following the issuance of a recommended decision by an administrative law judge of the division, shall be an agency decision subject to judicial review pursuant to chapter 30A of the General Laws; and provided further, that funds shall be expended for the processing and adjudication of all pending and newly-filed department of environmental protection appeals ..... \$1,418,052

*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. .... \$1,273,692

1120-4006 The George Fingold Library may expend revenues collected up to a maximum of \$20,000 from the fees charged for copying services; provided, that the Library shall submit a report that details revenue collected and expenditures made to the house and senate committees on ways and means on or before January 1, 2009 ..... \$20,000

*Department of Revenue.*

1201-0100 For the operation of the department of revenue, including tax collection administration and audits of certain foreign corporations; 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; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than December 1 and ending no later than November 30; provided further, that the department shall conduct a review of revenue generating and cost saving proposal, including, but not limited to (a) the use of affinity credit cards in the Commonwealth; and (b) establishing a single point of contact to coordinate federal financial assistance; provided further, that the results of said review shall be reported to the secretary of administration and finance and the house and senate committees on ways and means no later than February 1, 2009; provided further, that seasonal positions funded by this account may not be filled by an incumbent for more than 10 months within a 12 month period; provided further, that the department shall conduct a pilot public awareness and education outreach campaign about state and local tax credits, deductions, deferrals and exemptions and other tax information available to persons age 65 and over including, but not limited to, section 6 of chapter 62 and section 5 of chapter 59 of the General Laws; provided further, that the department shall work in conjunction with the executive office of elder affairs in disseminating information and conducting the campaign; provided further, that the department shall conduct the campaign from July 1, 2008, to April 15, 2009, inclusive, and shall report their efforts to the house and senate committee on ways and means and the joint committee on elder affairs not later than May 15, 2009; and



provided further, that the department shall also file an interim report to the house and senate committee on ways and means and the joint committee on elder affairs not later than January 1, 2009 .....		\$119,073,397
General Fund .....		95.0%
Highway Fund .....		5.0%
1201-0118 For the operation of the division of local services .....		\$6,242,559
1201-0130 The department of revenue may expend for the operation of the department an amount not to exceed \$16,330,000 from revenues collected by the additional auditors for an enhanced audit program; provided, that the auditors shall: (1) discover and identify persons who are delinquent either in the filing of a tax return or the payment of a tax due and payable to the commonwealth; (2) obtain said delinquent returns; and (3) collect such delinquent taxes for a prior fiscal year; 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; and provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means that shall include, but not be limited to, the following: the amount of revenue produced from these additional auditors; and the amount of revenue produced by this item in fiscal years 2005, 2006, 2007, and 2008 .....		\$16,330,000
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; 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 as reported in the state accounting system for federal incentives and said network in accounts 1201-0161, 1201-0410 and 1201-0412; ..... \$52,012,766

1201-0164 For the child support enforcement division; provided, that the 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; 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, as reported in the state accounting system .. \$6,547,280

1231-1000 For the Commonwealth Sewer Rate Relief Fund, established in section 2Z of chapter 29 of the General Laws; provided, that the Massachusetts Water Resources Authority shall submit a report to the house and senate committees on ways means and the secretary of administration and finance no later than October 1, 2008 that shall include, but not be limited to, the following: (a) an analysis of the options for reducing operating costs of the authority; (b) the use of contracts with private entities for the operation and maintenance of facilities

- owned or operated by the authority; and (c) the cost savings and any legislation necessary to effectuate the proposed recommendations of the report ..... \$20,000,000
- 1231-1020 For a program of loans, loan purchases or loan guarantees or interest subsidies to assist homeowners, homeowner associations or condominium associations in complying with revised state environmental code for subsurface disposal of sanitary waste, Title V; provided, that the program shall be in addition to the loan program established pursuant to item 2200-9959 in section 2 of chapter 85 of the acts of 1994; provided further, that the department may contract with third parties, including, but not limited to, commonwealth-based financial institutions to manage the 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; provided, that in the prioritization of claims, consideration shall be given to claimants who own not more than 2 dispensing facilities ..... \$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 said chapter 21J; provided, that notwithstanding section 4 of said 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, 2009 . . . . .	\$1,791,327
1232-0300	For underground storage tank municipal grants to remove and replace the tanks pursuant to section 2 of chapter 21J of the General Laws and section 37A of chapter 148 of the General Laws . . . . .	\$465,406
1233-2000	For the tax abatement program for certain veterans, widows, blind persons, and the elderly; provided, that cities and towns shall be reimbursed for the abatements granted pursuant to clauses Seventeenth, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Thirty-seventh, Thirty-seventh A and Fifty-second of section 5 of chapter 59 of the General Laws . . . . .	\$17,241,130
1233-2006	For reimbursements to cities and towns for additional exemptions from the motor vehicle excise granted pursuant to the seventh paragraph of section 1 of chapter 60A of the General Laws, as amended by sections 13 to 14 of chapter 260 of the acts of 2006 . . . . .	\$1,468,525
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 not later than December 1, 2008, on the number of hearings held at each location . . . . .	\$2,232,786
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1310-1001 The appellate tax board may expend revenues up to a maximum of \$300,000 from fees collected; provided, that in order to accommodate discrepancies between the receipt of retained revenues and related expenditures, the board may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ..... \$300,000

*Reserves.*

1599-0025 For the secretary of administration and finance to provide the commonwealth's customers with the convenience of expanded access to internet payment options and to improve revenue collections and cash flow; provided, that the secretary may expend an amount not to exceed \$1,000,000 collected from payments made electronically to subsidize the costs associated with processing those payments; and provided further, that the secretary, in consultation with the comptroller, may enter into agreements with state agencies to provide for an electronic transaction fee subsidy, which shall be structured to expire after 3 years ..... \$1,000,000

1599-0042 For a reserve to improve the quality of the commonwealth's early education and care system; provided, that payments from said reserve shall be distributed by the department to increase reimbursement rates for subsidized early education and care; and provided further, that the increases shall be directed to expenditures for salaries, benefits, and stipends for professional development of early education and care workers or programmatic quality improvements ..... \$5,000,000

1599-0045 For a capital projects reserve; provided, that not less than \$1,000,000 shall be expended to assist the YMCA of Greater Boston on capital projects approved by the board of directors of the YMCA; and provided further, that not less than \$500,000 shall be expended for the United Teen Equality Center in Lowell ..... \$1,500,000

1599-0050 For Route 3 North contract assistance payments ..... \$23,700,846

1599-0093 For contract assistance to the water pollution abatement trust for debt service obligations of the trust, pursuant to sections 6, 6A and 18 of chapter 29C of the General Laws ..... \$67,489,026

1599-1004 For a reserve to support the implementation of the recommenda-

tions of the special commission to end homelessness in the commonwealth under chapter 2 of the resolves of 2006, as amended by chapter 1 of the resolves of 2007; provided, that this implementation shall be developed in collaboration with the interagency council to end homelessness, as established in Executive Order 492; provided further, that the funding made available in this item shall support the implementation of a comprehensive plan to end homelessness in the commonwealth; provided further, that funding provided in this item shall be in addition to \$1,750,000 in funding from the Massachusetts Housing Finance Agency; provided further, that the funding shall be made available for purposes recommended by the commission, including but not limited to, rental assistance, emergency assistance, and the development of assessment tools that will provide the necessary means to identify and serve homeless populations and those at-risk of homelessness; and provided further, that prior to the expenditure of funds from this item the secretary of administration and finance shall approve a spending plan to be submitted by the director of the department of housing and community development to the chairs of the house and senate committees on ways and means and the secretary of administration and finance by September 1, 2008 identifying the proposed current year expenditures by program and the annualized value of these expenditures in a format proscribed by the secretary . . . . . \$8,250,000

1599-1970 For a reserve for the Massachusetts Turnpike Authority for costs incurred in fiscal year 2008 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, 2009, which shall include, but not be limited to, the following: (a) 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; and (b) a statement of how many salt storage facilities in the commonwealth are in conformity with section 7A of chapter 85 of the General Laws and how many are not . . . . .	\$2,000,000
1599-2008	For a reserve to fund the additional administrative costs associated with the design and implementation of initiatives to promote cost containment, transparency, and efficiency in the delivery of quality health care including, but not limited to: costs of personnel and overtime, contracts, and the purchase of new information technologies as necessary; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that the secretary may only transfer such amounts to other items within the executive office for administration and finance, the health care quality and cost council, the executive office of health and human services, the department of public health, the division of health care finance and policy, the office of Medicaid, the attorney general's office, the inspector general's office, the department of housing and community development, and the division of insurance . . . . .	\$1,500,000
1599-2009	For a reserve for Hale Hospital in the city of Haverhill . . . . .	\$2,420,000
1599-3234	For the commonwealth's South Essex sewerage district debt service assessment . . . . .	\$89,763
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 . . . . .	\$2,500,000
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 .....	\$1,581,922
1599-4231	For the fiscal year 2009 costs of the salary classification pool provided for in article 12 of the contract between the commonwealth and the National Association of Government Employees (Units 1, 3 and 6); provided, that the secretary of administration and finance may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2009 amounts that are 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 .....	\$1,000,000
1599-4233	For the fiscal year 2009 costs of the salary classification pool provided for in article 12 of the contract between the commonwealth and the Service Employees International Union (Units 8 & 10); provided, that the secretary of administration and finance may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2009 amounts that are 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 .....	\$2,000,000
1599-4417	For the operation of the Edward J. Collins, Jr. Center for Public Management at the University of Massachusetts at Boston's McCormack Graduate School of Policy Studies .....	\$541,000
1599-6901	For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel earning 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, 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 appropriation upon assurances that the funds shall be used solely for the purposes of equal percentage adjustments to wages, compensation or salary; provided further, that not later than January 15, 2009, the executive office of health and human services 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 the adjustment in fiscal year 2009 and the average percentage adjustment funded herein; 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 early education and 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 2009 costs of salary adjustments and any other associated employee costs authorized there under shall not exceed \$23,000,000; provided further, that the executive office health and human services shall submit an allocation schedule to the house and senate committees on ways and means not less than 30 days after disbursement of funds; and provided further, that the annualized cost of the adjustments in fiscal year 2010 shall not exceed the amount appropriated herein . . . . . \$23,000,000

1599-7050 For the purposes of administrative and program expenses associated with the settlement agreement in the case of Rosie D. et al v. Romney, civil action No. 01-30199-MAP, filed in the United States District Court, in order to provide community-based services to children suffering from severe emotional disturbances; provided, that the executive office of health and human services shall, not later than October 1, 2008, and April 1, 2009, submit to the executive office for administration and finance and to the house and senate committees on ways and means a report detailing the implementation plan to date as well as the results of the scheduled



	plan, which shall include a schedule detailing the commencement of services and the cost to implement the settlement by service type . . . . .	\$25,000,000
1599-7104	For a reserve for the facilities costs associated with the college of visual and performing arts at the University of Massachusetts at Dartmouth; provided, that funds may be expended for Bristol Community College . . . . .	\$2,700,000

*Division of Human Resources.*

1750-0100 For the operation of the human resources division and the costs of administration, training, and customer support related to the commonwealth's human resources and compensation management system; provided, that the information technology division shall continue a chargeback system for its bureau of computer services including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided 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 secretary of administration and finance 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 those 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 ..... \$4,225,345

1750-0102 The human resources division may expend not more than \$1,627,500 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 as reported in the state accounting system ..... \$1,627,500

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 the program ..... \$106,058

1750-0119 For payment of workers' compensation benefits to certain former employees of Middlesex and Worcester counties; provided, that the division shall routinely recertify the former employees pursuant to current workers' compensation procedures ..... \$76,350

1750-0201	The human resources division may expend not more than \$800,000 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 2, 2009, on the projected costs of the program for fiscal year 2009 .....	\$800,000
1750-0300	For the commonwealth's contributions in fiscal year 2009 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 the health and welfare trust funds on a monthly basis or on such other basis as the applicable collective bargaining agreement provides .....	\$27,800,000

*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 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 the prices in fiscal year 2009 by increasing the final fiscal year 2008 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 2009; 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 the 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 .....		\$2,093,556
1775-0102 For the operation of the online procurement system .....		\$541,791
1775-0124 The operational services division may expend an amount not to exceed \$500,000 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 .....		\$500,000
1775-0600 The operational services division may expend not more than \$150,000 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 .....		\$150,000
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 \$600,000 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, 2008; 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 . . . . .	\$600,000
1775-1101	For the operation of the affirmative marketing program, housed within the operational services division, for costs associated with the administration of services for minority and women business owners to develop and maintain equitable practices and policies in the public marketplace . . . . .	\$291,124

*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	
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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, 2009, with actual and projected savings and expenditures for the audits in the fiscal year ending June 30, 2009; 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 the project or purchase; and provided further, that the chief information officer may establish rules and procedures necessary to implement this item . . . . . \$5,366,479

1790-0300 The information technology division may expend not more than \$601,850 from revenues collected from the provision of computer resources and services to the general public for the costs of the bureau of computer services, including the purchase, lease or rental of telecommunications lines, services and equipment . . . . . \$601,850



**EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

2000-0100 For the operation of the office of the secretary of energy and environmental affairs, 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 energy and 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 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: (a) an identification of the employees that would be affected by consolidation and the item of appropriation that they are paid from; (b) the savings or efficiencies to be realized; (c) the improvements to the services expected; and (d) the source and amount of funding necessary to accomplish the consolidation; 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 enable such consolidation of services

	to take place; provided further, that \$75,000 shall be expended to the University of Massachusetts Lowell's Technical Assistance and Research Center for Housing and Sustainability to develop an outreach partnership with the executive office of energy and environmental affairs based on the Green Building Initiative; provided further, that not less than \$70,000 shall be expended for the Falmouth Kids Global Climate Change Institute; provided further, that \$118,308 shall be expended to the town of Rutland; provided further, that not less than \$150,000 shall be expended for a one to one matching grant to the Cape Cod Bay sanctuary program; provided further, that not less than \$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; provided further, that not less than \$125,000 shall be expended for the hillside restoration project located in the town of Boylston; and provided further, that not less than \$100,000 shall be expended for "Horizons for Youth" property in Sharon . . . . .	\$7,773,765
2000-9900	For the office of geographic and environmental information established in section 4B of chapter 21A of the General Laws . . .	\$296,032
2001-1001	The secretary of energy and environmental affairs may expend not more than \$125,000 from fees charged to entities other than political subdivisions of the commonwealth for the distribution of digital cartographic and other data for the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws . . . . .	\$125,000
2010-0100	For recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling market development and recycling business development, and the operation of the Springfield materials recycling facility; provided, that funds may be expended for a recycling industry reimbursement program pursuant to section 241 of chapter 43	

	of the acts of 1997; and provided further, that funds may be expended on municipal recycling incentives and equipment grants .....	\$2,111,987
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 the program shall take into consideration the volume of redeemables per redemption center, the length of time the center has been in operation, the number of returnables redeemed quarterly by the centers, the submission by the centers of documentation of their redeemed returnables to the department and the costs of transportation, packing, storage and labor; and provided further, that a redemption center shall be eligible for the funds if registered with the commonwealth as of April 1, 2003 .....	\$550,000
2020-0100	For toxics use reduction technical assistance and technology in accordance with chapter 21I of the General Laws .....	\$1,711,245
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; provided further, that not less than \$150,000 shall be expended for the costs of patrols performed by environmental law enforcement officers within properties controlled by the department of conservation and recreation; and provided further, that funds from this item shall not be expended for the purposes of item 2030-1004 .....	\$11,570,989
2030-1004	For environmental police private details; provided, that the office may expend revenues of up to \$500,000 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 as reported in the state accounting system ..... \$500,000

*Department of Public Utilities.*

- 2100-0012 For the operations of the department of public utilities; provided, that notwithstanding the second sentence of the first paragraph of section 18 of chapter 25 of the General Laws, the assessments levied for fiscal year 2009 under that paragraph shall be made at a rate sufficient to produce \$6,618,993 ..... \$6,618,993
- 2100-0013 For the operation of the transportation division ..... \$593,360
- 2100-0014 The department of public utilities may expend for the operation of the energy facilities siting board an amount not to exceed \$75,000 from application fees collected in fiscal year 2009 and prior fiscal years from utility companies ..... \$75,000
- 2100-0015 The department of public utilities may expend for the operation of the transportation division an amount not to exceed \$2,300,000 from unified carrier registration fees collected in fiscal year 2009 and prior fiscal years from motor carrier companies ..... \$2,300,000

*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; provided, that 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 not more than \$200,000 shall be expended for a wastewater management study and environmental impact report for the town of Acushnet; provided further, that \$200,000 shall be expended for the administration and enforcement of the mercury management act; provided further, that \$168,000 shall be expended for sediment control in Lake Webster; provided further, that no less than \$100,000 shall be expended for the town of Marblehead; provided further, that no less than \$67,660 shall

be expended for the town of Spencer for a drinking water revolving fund; provided further, that no less than \$50,000 shall be expended for the Buzzards Bay National Estuary Municipal Grant Program; provided further, that not less than \$30,000 be expended for erosion protection at the Center Cemetery in the town of Gill; provided further, that not less than \$15,000 shall be expended for emergency milfoil control of Noyes Pond in the town of Tolland; and provided further, that the department may investigate ways to ease the financial burden on municipalities of compliance with state and federal mandates, whether imposed judicially, statutorily, or through regulation, regarding clean water requirements, including, but not limited to, the extension of time period for compliance and financing . . . . . \$36,272,524

2200-0102 For the department of environmental protection which 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 12, 2009 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 will be 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, 2009 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 . . . . . \$1,007,733

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 . . . . .	\$1,079,944
2220-2221	For the administration and implementation of the operating permit and compliance program required under the federal Clean Air Act . . . . .	\$2,104,090
2250-2000	For the purposes of state implementation of the federal Safe Drinking Water Act under section 18A of chapter 21A of the General Laws . . . . .	\$1,674,347
2260-8870	For the expenses of the hazardous waste cleanup and underground storage tank programs, notwithstanding section 4 of chapter 21J of the General Laws; provided, that not less than \$90,000 shall be provided for the city of Lynn . . . . .	\$16,662,923
2260-8872	For the brownfields site audit program . . . . .	\$1,911,111
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 . . . . .	\$414,879

*Department of Fish and Game.*

2300-0100	For the office of the commissioner; provided, that the commissioner'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; provided further, that the amount and contribution from each division or program shall be determined by the commissioner of fish and game; provided further, that \$50,000 in matching funds shall be provided to the National Marine Life Center, Inc. for animal care; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than October 1, 2008 that details the level of assessments to each department under the control of the office of the commissioner in fiscal years 2007 and 2008 . . . . .	\$793,896
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 . . . .	\$650,000
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 2008 for such research; provided further, that \$200,000 shall be expended to continue to operate fish hatcheries in the towns Montague and Sandwich; provided further, that the department may 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 funds may be expended to supplement the natural heritage and endangered species program . . . . .	\$10,327,287
	Inland Fisheries and Game Fund . . . . .	100.0%
2310-0300	For the operation of the natural heritage and endangered species program . . . . .	\$250,000
2310-0306	For the hunter safety training program . . . . .	\$497,148
	Inland Fisheries and Game Fund . . . . .	100.0%
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 . . . . .	\$1,500,000
	Inland Fisheries and Game Fund . . . . .	100.0%

2310-0317	For the waterfowl management program established 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; provided, that positions funded in this item shall not be subject to chapter 31 of the General Laws . . .	\$635,647
2330-0100	For the operation of the division of marine fisheries, including expenses of the Annisquam river marine research laboratory, marine research programs, a commercial fisheries program, a shellfish management program, including coastal area classification, mapping and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that \$300,000 shall be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that the sum expended for the school for marine science and technology for research to minimize the economic impact of new fisheries management regulations shall not be reduced from fiscal year 2008 levels except in proportion to adjustments consistent with the department's budget adjustments; 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 \$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 Barnstable County Department of Health and the 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 division shall continue to develop strategies to improve federal regulations governing the commercial fishing industry so as to promote it's sustainability; and provided further, that not less than \$47,000 shall be expended for fishermen safety training for the city of New Bedford . . . . .	\$5,700,068
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 equip-	

	ment maintenance, staff and the maintenance and updating of data .....	\$609,040
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 division of administration, the expenses of the board of agriculture, the division of dairy services, division of regulatory services, the division of animal health, the division of agricultural technical assistance, the division of crop management and inspectional services, 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, that not less than \$45,000 shall be expended for shellfish propagation on the islands of Martha's Vineyard and Nantucket to be administered jointly by the state aquaculture coordinator and Dukes and Nantucket counties; provided further, that not less than \$10,000 shall be made available to the Massachusetts Specialty Foods Association; provided further, that \$100,000 shall be expended for 4H activities from this item; provided further, that \$50,000 shall be expended on the YouthGROW program; provided further, that not less than \$200,000 shall be expended to enhance the buy local effort in western, central, northeastern, and southeastern Massachusetts; provided further, that not less than \$50,000 shall be expended for agricultural fair prizes and rehabilitation, including the expenses of the agricultural lands board; and provided further, that the department shall, to the extent possible, encourage corporate sponsorships for the purposes of providing agricultural fair prizes .....	\$5,506,927
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- 2511-0105 For the purchase of supplemental foods for the Massachusetts emergency food assistance program within the America's second harvest nationally-certified food bank system of Massachusetts; provided, that the funds appropriated herein shall reflect the America's second harvest allocation formula, to benefit the four regional food banks in Massachusetts: The Greater Boston Food Bank, Merrimack Valley Food Bank, The Food Bank of Western Massachusetts and Worcester County Food Bank; and provided further, that the department may assess an administrative charge not to exceed 2 per cent of the total appropriation herein ..... \$12,000,000
- 2511-2000 For the Agricultural Innovation Center; provided, that the Agricultural Innovation Center shall provide a broad range of technical and business development services to the commonwealth's agricultural producers that may add value to the producers, products and services; provided further, that the Agricultural Innovation Center shall develop an outreach program to identify and foster new, innovative ideas and approaches to adding value to the commonwealth's agricultural economy; and provided further, that the Agricultural Innovation Center shall solicit requests from the commonwealth's agricultural industry for funding and technical assistance in training, marketing, distribution, applied research, agri-tourism, aquaculture, forestry, processing, fiber and agricultural resource management ..... \$1,500,000
- 2511-3002 For the Integrated Pest Management program ..... \$300,593

*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 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 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 section 3B of chapter 7 of the General Laws, the department shall establish or renegotiate fees, licenses, permits, rents and leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of the 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 13, 2009; provided further, that notwithstanding 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 no funds shall be expended from this item for personnel overtime costs; 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 intersubsidiary transfers or interagency service agreements and the reason for said transfer; provided further, that the amount transferred pursuant to interagency service agreements shall not increase from fiscal year 2008; 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 file a report with the house and senate committees on ways and means not later than December 15, 2008, 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 detail the efficiencies that have been achieved from said merger; provided further, that said report shall detail the areas of the department where efficiencies have been achieved from the sharing of resources; provided further, that said report shall provide a plan to fully integrate all aspects of the department and said plan shall provide any

recommendations that are necessary to improve the department; provided further, that notwithstanding any general or special law to the contrary, the department shall continue to fund a maintenance contract for daily trash removal at Revere beach through proceeds received by the city of Revere and the department pursuant to section 29 of chapter 236 of the acts of 2002 and section 2 of this act; provided further, that not less than \$200,000 shall be expended for the operation of the Bellegarde Boathouse in the city of Lowell; provided further, that not less than \$250,000 shall be expended for the purpose of aquatic management for the Wekepeke Reservoir in the town of Sterling; provided further, that a bench may be erected within Webb Memorial State Park honoring the memory of Brenda Dunker for her life as a selfless volunteer for many worthy causes and for the gardening enthusiasm and skill she graciously displayed in enhancing the beauty and prestige of Webb Memorial State Park and that a suitable marker bearing this designation shall be placed on the memorial bench by the department of conservation and recreation in compliance with the standards of the department; provided further, that not less than \$150,000 shall be expended to the town of Shutesbury for the purpose of aquatic management for Lake Wyola; provided further, that \$100,000 shall be allocated to completing Resource Management Plans for state parks and urban parks in the commonwealth; provided further, that not less than \$100,000 shall be expended for the DCR Park Rangers mounted unit in the Blue Hills Reservation; provided further, that not less than \$100,000 shall be expended for the Massachusetts Hummocks Park as owned and operated by the department; provided further, that not less than \$60,000 shall be expended for the Martha's Vineyard Commission; and provided further, that not less than \$32,000 shall be expended for Opticom at the site of the Revere Public Safety Facility . . . \$7,389,872

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 the General Laws; provided further, that not less than \$100,000 shall be expended for Pine Tree Brook in the town of Milton; provided further, that not less than \$100,000 shall be expended for a grant to the town of Hopkinton for the North Pond Dam/Lake Maspenock Dam located in the towns of Hopkinton, Milford, and Upton; provided further, that \$50,000 shall be expended for the maintenance of invasive aquatic weeds on the Charles River in Auburndale; provided further, that not less than \$100,000 shall be expended for invasive weed control on the Charles river in Waltham; 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 not less than \$35,000 shall be expended for storm water remediation along the Cole River or Lees River by the town of Swansea; provided further, that \$40,000 shall be expended for aquatic nuisance control in Sluice Pond and Flax Pond in the city of Lynn; provided further, that no less than \$30,000 shall be expended for Eel Pond in the town of Mattapoisett; provided further, that no less than \$25,000 shall be expended for aquatic weed control for Upper Mystic Lake in Winchester; provided further, that no less than \$15,000 shall be expended for aquatic weed control for Winter Pond in Winchester; and provided further, that not less than \$15,000 shall be expended for the Merrimack River Watershed Council ..... \$2,060,310

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 shall 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 . . . . .	\$1,094,643
2800-0500	For the upkeep of 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 be fully maintained; provided further, that not less than \$75,000 shall be expended for the North and South rivers Watershed association for the purposes of restoring the North and South rivers and their tributaries to met clean water act standards; provided further, that not less that \$50,000 shall be expended for the cleanup of Pilayella Algae on Kings Beach and Long beach in Lynn; provided further, that no less than \$35,000 shall be expended for the cleanup of Pilayella algae on Nahant Beach Reservation; provided further, that not less than \$100,000 shall be expended for the Jones River Watershed Association of Kingston; provided further, that the department shall file a report with the house and senate committees on ways and means not later than December 15, 2008, that shall include, but not be limited to, the following: (1) the amount of funding provided to each beach under the control of the department in fiscal years 2007 and 2008; (2) a breakdown of how the funds were spent for each 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 each beach in fiscal year 2009 from this item; and (5) a list of the services or materials for each beach that will be provided from this item; and provided further, that not less than \$1,000,000 shall be expended for personnel for the metropolitan beaches commission, as recommended by the Beaches We Can Be Proud Of report which was prepared for the metropolitan beaches commission . . . . .	\$4,303,025
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 December 15, 2008, that shall include, but not be limited to, the following: (1) the amount of funding provided to each pool under the control of the department in fiscal years 2007 and 2008; (2) a breakdown of how the funds were spent for each 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 each pool in fiscal year 2009 from this item; and (5) a list of the services or materials for each pool that will be provided from this item ..... \$750,000

2800-0700 For the office of dam safety; provided, 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 the department shall file a report with the house and senate committees on ways and means not later than December 15, 2008, that shall include, but not be limited to, the following: (a) the number of staff that are assigned from this item and their job title; (b) the number of dam inspections that are scheduled for fiscal year 2009; and (c) the number of dams that are in need of repairs or need to be replaced; provided further, that not less than \$500,000 shall be directed toward the hiring of dam safety engineers; and provided further, that not less than \$140,000 shall be expended for a hydraulic study of increasing the pumping capacity of the Amelia Earhart Dam on the Mystic River ..... \$1,175,428

2800-2000 For the state licensed foresters program; provided, that the department of conservation and recreation may expend not more than \$600,000 from revenues collected from the sale of timber for materials, supplies, equipment 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 ..... \$600,000



2800-9004	For certain payments for the maintenance and use of the Trailside Museum and the Chickatawbut Hill Education center . . . . .	\$425,000
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 the level of funding for the beaches and pools from this item in fiscal year 2009 shall not be reduced from fiscal year 2008; provided further, that not less than \$400,000 shall be expended for amelioration of an area bounded by Middle, Garey and Commercial Streets in the town of Weymouth; provided further, that the department shall submit a report on the staffing levels at all state and urban parks to the house and senate committees on ways and means not later than January 30, 2009, it shall include, but not be limited to, the following: (a) the number of staff assigned to each park; (b) the total number of visitors to each park; and (c) the total acreage of each park; provided further, that not less than \$250,000 shall be provided to the Camp Marion and Mumford River Recreation Programs; provided further, not less than \$200,000 shall be expended for the park and recreation center for the town of Holbrook; provided further, that not less than \$185,000 shall be expended for the Schooner Ernestina Commission; provided further, that not less than \$150,000 shall be expended for the toddler park in the city of Woburn; provided further, that not less than \$200,000 shall be expended on the recreational facilities of Woburn high school; provided further, that \$150,000 shall be expended for the Methuen Parks and Recreation Department; provided further, that not less than \$100,000 shall be expended for eradication of invasive aquatic species in Lake Cochituate State Park; provided further, that not less than \$100,000 shall be expended for the Heritage State Park located in the Roxbury section of the city of Boston; provided	

	further, that not less than \$50,000 shall be provided to the Lake Singletary Watershed Association; provided further, that not less than \$20,000 shall be expended to the Chandler Pond Preservation Society; provided further, that not less than \$25,000 shall be expended for the print shop building at Brook Farm Reservation in the West Roxbury section of the city of Boston; and provided further, that Watson's Pond state park in Taunton and Ames Nowell state park in Abington shall remain open and appropriately staffed to allow public swimming and recreation for the season .....	\$26,091,714
2810-0200	For summer employment programs at department of conservation 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 .....	\$2,024,405
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 before 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 2008 shall continue to receive such benefits in fiscal year 2009 during the period of their seasonal employment; provided further, that no expenditures shall be made from this item other than for the purposes identified in this item; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this item shall be 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 .....	\$5,620,015

- 2810-2040 The division of state parks and recreation may expend not more than \$6,004,826 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 for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that no 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 the house and senate committees on ways and means at the time subsequent quarterly statements are published of the variance between actual and projected receipts in each such quarter and the implications of that variance for expenditures made; and provided further, that the division may issue grants to public and nonpublic entities from this item ..... \$6,004,826
- 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 the rinks under the control



of the department shall remain open and staffed for the full rink season; provided further, that the level of funding for the beaches and pools from this item in fiscal year 2009 shall not be reduced from fiscal year 2008; provided further, that not less than \$55,000 shall be expended for the maintenance of Red Rock park on Lynn Shore drive in the city of Lynn, including \$5,000 for the replacement of dead vegetation in the park; provided further, that not less than \$450,000 shall be expended to the city of Lowell; provided further, that \$250,000 shall be expended for a linked trail system for local and state parks along the Back River in the towns of Weymouth and Hingham; provided further, that not less than \$225,000 shall be expended for the Southwest Corridor Park; provided further, that \$297,000 shall be expended for the James Michael Curley Recreation Center in the city of Boston; provided further, that not less than \$150,000 shall be expended for the Hill Park and the William G. Reinstein Complex in the city of Revere; provided further, that \$75,000 shall be expended for the Esplanade in the city of Boston; provided further, that not less than \$75,000 shall be expended for Eugene Lovely Field in Andover; provided further, that not less than \$75,000 shall be expended for the Herter Center in the Christian A. Herter Park located in Allston-Brighton section of the city of Boston for the purpose of preserving educational and cultural materials that benefit the commonwealth; provided further, that not less than \$50,000 shall be expended for the costs associated with the management of aquatic non-native plants in the Charles River lakes district; provided further, that not less than \$50,000 shall be expended for the eradication of invasive aquatic weeds in the town of Wayland; provided further, that not less than \$50,000 shall be provided for the ponds at Lake Street in the town of Acushnet; provided further, that not less than \$50,000 shall be expended for the Fellsmere Pond Reservoir in the city of Malden; provided further, that not less than \$50,000 shall be expended for public safety on the Deerfield and upper Connecticut River; provided further, that not less than \$25,000 shall be expended for the eradication of invasive aquatic weeds in the town of Lincoln; provided further, that not less than \$20,000 shall be expended for Squantum Park in

	the city of Quincy; provided further, that not less than \$15,000 shall be expended for the Memorial Field in the town of Whitman; and provided further, that not less than \$3,900 shall be expended on Senator Charles E. Shannon Crossing Guard Corps at the corner of Mystic avenue and Shore drive in the city of Somerville .....	\$29,701,754
2820-0101	For the costs associated with the department's urban park rangers specific to the security of the state house; provided, that funds appropriated in this item shall only be expended for the costs of security and urban park rangers at the state house .....	\$2,002,812
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 .....	\$3,150,000
2820-0300	For the operation and maintenance of the central artery/tunnel parks and Spectacle island .....	\$1,603,959
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
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 en-	

	tered 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 energy and 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 January 14, 2009; and provided further, that the secretary of energy and 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, 2008, 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 2007 and 2008 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 . . . . .	\$1,000,000
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, 2008, and April 30, 2009, 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 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 . . . . .	\$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 \$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 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 . . .	\$1,100,000
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; and provided further, that said department shall implement a plan to achieve efficiencies and reduce lighting costs . . . . .	\$3,315,033
<i>Division of Energy Resources.</i>		
7006-1000	For the operation of the division of energy resources . . . . .	\$1,814,580
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 . . . . .	\$201,631

7006-1003 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 ..... \$441,404

*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 on the development of a comprehensive evaluation system for all early education and care programs in the commonwealth; provided further, that the department shall report on the first business day of each month to the joint committee on education, the joint committee on children, families and persons with disabilities, 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, including supportive child care services; provided further, that notwithstanding chapter 66A of the General Laws, the department of early education and care, the lead agencies of community partnership councils, the child care resource and referral agencies, the department of elementary and secondary 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 funds from this item shall be expended to develop an implementation plan for a workforce development system in collaboration with the board and commissioner of higher education, pursuant to section 5 of chapter 15D of the General Laws; provided further, that as part of the development of said workforce implementation plan, the department shall expend funds for the development of core competencies for those working with children in early education programs; provided further, that the department shall issue a report, not

later than February 16, 2009, on the status of the department’s programming to the secretary of administration and finance, the senate president, the speaker of the house, the chairpersons of the house and senate committees on ways and means, and the house and senate chairperson of the joint committee on education; provided further, that the report shall contain the proposed core competencies to be issued by the department, and the status and findings of the department’s quality rating system; provided further, that the report shall contain a multi-year plan for the alignment of rates and quality standards and for programs to move toward meeting the quality standards enumerated in item 3000-5075; provided further, that the report shall contain details on the implementation of universal pre-kindergarten grants, along with any legislative recommendations for the improvement of the program; provided further, that the report shall contain a multi-year plan for the alignment of all classroom based quality enhancement grants funded by the department in order to ensure fairness and consistency across all preschool grant programs; provided further, that the report shall include the department’s recommendations on the consistent implementation of accreditation assistance across the commonwealth; provided further, that the report shall include the number of early childhood educators and providers who have received such training, the estimated number who have requested such additional training, and a review and analysis of the most effective types of professional development; and provided further, that the report shall include the estimated number of preschool suspensions and expulsions that occur each year in the commonwealth, the relative frequency of each type of mental illness or behavioral issues among children receiving programs and services from the department, and an analysis of the most effective intervention strategies . . . . . \$13,867,894

3000-2000 For local and regional administration and coordination of services provided by child care resource and referral agencies and community partnerships for children lead agencies; provided, that funding for eligible early education and care activities shall include, but not be limited to, administrative costs of these agencies, program coordination and support, voucher management, outreach to hard to reach populations,



intake and eligibility services for families seeking financial assistance to enroll in early education and care programs, resource and referral for families with disabilities in child care programs, support of comprehensive services for children and families, maintenance of the department's centralized waiting list for state-subsidized early education and care, community-based programs that provide direct services to parents, walk-in services for homeless families, and comprehensive planning at the local level through interagency and community collaboration; provided further, that community partnership councils receiving grants distributed from this item shall not expend more than \$4,625,533 for administrative costs, as defined by the department; provided further, that an additional \$250,000 shall be made available by the department of early education and care for the administration of the vouchers by child care resource and referral agencies; provided further, that the department shall assist the community partnership councils receiving grants of less than \$100,000 that choose to regionalize with the implementation of any regionalization plans; and provided further, that up to \$500,000 may be expended on planning grants to assist local councils in expanding their mission beyond preschool-aged children to include the provision of comprehensive services, community collaboration, quality, and outreach efforts to all children served by the department regardless of age . . . . . \$25,410,771

3000-2050 For the administration of the Children's Trust Fund; provided, that the department shall not exercise any supervision or control with respect to the board . . . . . \$1,349,658

3000-3050 For supportive early education and care associated with the family stabilization program; provided, that funds from this item shall only be expended for early education and care costs of children with active cases at the department of social services; provided further, that the department of early education and care, in collaboration with the department of social services, shall maintain a centralized list detailing the number of children eligible for services in this item, the number of supportive slots filled, and the number of supportive slots available; provided further, that no waiting list for the services shall exist; provided further, that all children eligible for services under this item shall receive said

services; provided further, that if the department determines that available appropriations for this program will be insufficient to meet projected expenses, the commissioner shall file with the house and senate committees on ways and means and the secretary of administration and finance, a report detailing the amount of appropriation needed to address such deficiency; and provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000, 3000-4050 and 3000-4060, 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 before the transfer . . . \$79,091,314

3000-4050 For financial assistance for families currently involved with or transitioning from transitional aid to families with dependent children (TAFDC) to enroll in an early education and care program; provided, that the department shall issue monthly reports detailing the number and average cost of voucher and contracted 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 recipients of benefits under the employment services program or any successor program, participants of any component activity under the program of transitional aid to families with dependent children, former recipients of transitional aid to families with dependent children who are employed during the year after termination of benefits, former recipients of transitional aid to families with dependent children participating in education or training programs authorized by department of transitional assistance regulations, parents under the age of 18 currently enrolled in an education or job training program who would qualify for transitional aid for families with dependent children, but for the deeming of grandparents' income, and 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 early education and care vouchers, shall be paid for from this item; provided further, that all early education and care providers that are part of a public school system shall

accept vouchers from recipients funded through this item; provided further, that early education and 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 early education and 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; provided further, that recipients of transitional aid shall not be charged fees for care provided under this item; provided further, that early education and care slots funded from this item shall be distributed geographically in a manner that provides fair and adequate access to early education and care for all eligible individuals; provided further, that informal early education and care benefits shall be funded from this item; provided further, that not more than \$2 per child per hour shall be paid for the services; provided further, that all children eligible for services under this item shall receive the services; provided further, that the department of early education and care and the department of transitional assistance shall collaborate to study and present findings on the fiscal and policy impact of child care assistance to families currently receiving services in this item are not entitled to these services under DTA regulations or section 110 of chapter 5 of the acts of 1995, as amended by section 155 of chapter 43 of the acts of 1997; provided further, that the department shall issue a report to the house and senate committees on ways and means and the executive office for administration and finance no later than March 15, 2009, detailing: (a) the number of families receiving child care who are transitioning from cash assistance in each of the past 3 fiscal years, (b) of these families, the number of years each family has been receiving child care since their cash assistance benefits have been terminated, (c) the correlative fiscal and policy impact on item 3000-4060 should former TAFDC recipients be added as a priority population, (d) the correlative fiscal and policy impact



on this item should former TAFDC recipients' child care remain within this entitlement account, (e) the breakdown of the entire caseload of this item by TAFDC status and employment and training status, which shall be provided by the department of transitional assistance, and (f) the number of former TAFDC recipients who transition off child care benefits due to exceeding income-eligibility requirements; provided further, that if the department determines that available appropriations for this program will be insufficient to meet projected expenses, the commissioner shall file with the house and senate committees on ways and means and with the secretary of administration and finance, a report detailing the amount of appropriation needed to address such a deficiency; provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000 and 3000-4060, 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 at least 30 days before the transfer; and provided further, that not more than 3 per cent of any item may be transferred in fiscal year 2009 ..... \$197,745,274

3000-4060 For income-eligible early education and care programs; provided, that income-eligible programs shall not include the employment services early education and care program, transitional early education and care programs or post-transitional early education and care programs; provided further, that teen parents at risk of becoming eligible for that assistance may be paid from this item; provided further, that informal early education and care benefits for families meeting income-eligibility criteria shall be funded from this item; provided further, that not more than \$2 per child per hour shall be paid for the services; provided further, that early education and care slots funded from this item shall be distributed geographically in a manner that provides fair and adequate access to early education and care for all eligible individuals; provided further, that all early education and care providers that are part of a public school system shall accept early education and care vouchers from recipients funded through this appropriation; provided further, that the community partnership councils shall enroll any new children

receiving services in fiscal year 2009 from the centralized waitlist maintained by the department under terms and conditions to be determined by the department including, but not limited to, a maximum rate capped at the seventy fifth percentile of the regional market rate; provided further, that children receiving services through this allocation shall retain priority status for future services available through the department upon attaining the age of 5; provided further, that the commissioner of the department of early education and care may transfer funds to this item from items 3000-1000 and 3000-4050, 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 at least 30 days before the transfer; provided further, that not more than 3 percent of any item may be transferred in fiscal year 2009; provided further, that said plan shall be forwarded to the house and senate chairs of the joint committee on education, the chairs of the house and senate ways and means committees, and the secretary of administration and finance; provided further, that the department shall maintain not less than the same number of vouchers funded in fiscal year 2008; and provided further, 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 . . . . . \$213,569,917

3000-5000 For grants to head start programs; provided, that funds from this item may be expended on early head start programs . . . . . \$10,000,000

3000-5075 For the Massachusetts Universal Pre-Kindergarten Program; provided, that funds from this item shall be expended on grants to improve the quality of and expand access to preschool programs and services to children from the age of 2 years and 9 months until they are kindergarten eligible, through a mixed system of service delivery including public, private, non-profit and for-profit preschools, child care centers, nursery schools, preschools operating within public and private schools and school districts, head start programs, independent and system-affiliated family child care homes; provided further, that funds shall be awarded directly to

programs; provided further, that in awarding grant funds under this program, preference shall be given to establishing preschool classrooms in towns and cities with schools and districts at risk of or determined to be under-performing in accordance with sections 1J and 1K of chapter 69, schools and districts which have been placed in the accountability status of identified for improvement, corrective action, or restructuring pursuant to departmental regulations, or which have been designated commonwealth priority schools or commonwealth pilot schools pursuant to said regulations, schools or districts with a high percentage of students scoring in levels 1 and 2 on the MCAS exams, or programs which serve children not less than 50 per cent of whom are from families earning at or below 85 per cent of the state median income; provided further, that funds may also be used to leverage and enhance community-wide capacity building efforts within statewide parameters established by the board; provided further, that all programs designated as Massachusetts Universal Pre-Kindergarten Program participants shall meet high program quality standards including those outlined in the Early Childhood Program Standards for Three and Four Year Olds and the Guidelines for Preschool Learning Experiences, and including appropriate standards for teacher and staff quality, teacher to child ratios and group size, age-appropriate curriculum and child assessment practices, kindergarten readiness assessments, comprehensive services like health and dental screenings and mental health supports where needed, transition to kindergarten policies, and program evaluation; provided further, that any newly-funded programs designated as Massachusetts Universal Pre-Kindergarten Program participants must have been accredited by the National Association for the Education of Young Children, the New England Association of Schools and Colleges, the National Association of Family Child Care or a Child Development Associate (CDA) credential or higher; provided further, that funds may be expended on programs working towards the designation of being a Massachusetts Universal Pre-Kindergarten Program participant; provided further, that programs shall have in place an assessment tool approved by the department, including but not limited to: Work Sampling,



High Scope Child Observation Record, Creative Curriculum Developmental Continuum, or Ages and Stages; provided further, that remaining funds available after grants are made to eligible programs may be expended on programs working towards the designation of being a Massachusetts Universal Pre-Kindergarten Program participant; provided further, that the grant program shall be sufficiently flexible to serve families with various work schedules; provided further, that programs receiving grant funds may use the funds to enhance teacher and staff quality and compensation, enhance program ability to interpret and use assessment data effectively, enhance developmentally appropriate practice, incorporate ancillary services into the program, facilitate or provide access to wrap-around services for working families, or to increase capacity to expand access to age-eligible children on the centralized waitlist maintained by the department; provided further, that preference shall be given in awarding grants to those programs which demonstrate affordability for middle class and working class parents according to standards to be developed by the department; and provided further, 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 . . \$12,138,739

3000-6000 For grants to early education and care providers in the commonwealth for the costs associated with accreditation by the National Association for the Education of Young Children, the National Association for Family Child Care, or such other accreditation agencies approved by the board; provided, that funds shall be distributed by the department with approval of the board; provided further, that eligible recipients for such grants shall include community partnership councils, municipal school districts, regional school districts, educational collaboratives, head start programs, licensed child care providers, and child care resource and referral centers; and provided further, that, in order to ensure continuity in the accreditation process, the department shall provide continuation grants without further application to any local council

	which received funds last year, and which are engaged in ongoing accreditation projects .....	\$1,738,739
3000-6050	For grants to provide professional development for early education and care providers to be distributed by the department with approval of the board; provided, that eligible recipients for such grants shall include community partnership councils, municipal school districts, regional school districts, educational collaboratives, head start programs, licensed child care providers, and child care resource and referral centers; provided further, that the department shall only approve professional development courses and offerings with proven, replicable results in improving early education and care, and which shall have demonstrated the use of best practices, as determined by the department; provided further, that said professional development courses shall be aligned with core competencies identified by the department and with the Universal Pre-Kindergarten program quality standards; provided further, that the department shall encourage and support early childhood education and care providers to obtain associate and bachelor degrees through the Building Careers program model; and provided further, that not less than \$250,000 shall be expended for the child development associate scholarships program .....	\$4,558,000
3000-6075	For early childhood mental health consultation services in early education and care programs in the commonwealth; provided, that preference shall be given to those services designed to limit the number of expulsions and suspensions from said programs; and provided further, that eligible recipients for such grants shall include community partnership councils, municipal school districts, regional school districts, educational collaboratives, head start programs, licensed child care providers, child care resource and referral centers and other qualified entities .....	\$2,900,000
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 though this item with services provided through item 3000-7050 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 . . . . .	\$13,192,235
3000-7050	For grants to programs which improve the parenting skills of participants in early education and care programs in the commonwealth; provided, that not less than \$5,395,694 shall be expended on the Mass Family Networks program; provided further, that not less than \$3,100,000 shall be expended for grants for the home-based parenting, family literacy, and school readiness program known as the Parent-Child Home Program; provided further, that the department shall distribute said \$3,100,000 not later than August, 2008 in order to allow a full year of service for families involved in these programs; provided further, that \$1,000,000 shall be made available for matching grants to fund a 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 further, that the funds distributed through Reach Out and Read program shall be contingent upon a match of not less than \$1 in private or corporate contributions for every \$1 in state grant funding; and provided further, that the department shall, to the maximum extent feasible, coordinate services provided through this item with services provided through item 3000-7000 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 . . .	\$9,555,694

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

4000-0050	For the operation of the personal care attendant quality workforce council established under section 29 of chapter 118G of the General Laws \$ . . . . .	300,000
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	



shall award the full amount of each grant to each organization upon commitment of matching funds from the organization; 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 2009 by March 1, 2009; provided further, that not less than \$3,300,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs; provided further, that an amount not to exceed \$50,000 shall be provided in a matching grant to the Methuen Branch of the Merrimack Valley YMCA; provided further, that not less than \$155,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less than \$50,000 shall be expended for the Project Adventure Youth Leadership Program administered by Family Service, Inc. of Lawrence; provided further, that not less than \$50,000 shall be expended for youth and family programs and improvements at the West Suburban YMCA; provided further, that not less than \$100,000 shall be expended for the YWCA of Newburyport; provided further, that not less than \$50,000 shall be expended to the Chelsea YMCA; provided further, that not less than \$100,000 shall be expended for Square One, formerly the Springfield Day Nursery; provided further, that \$125,000 shall be expended for the YMCA of Greater Worcester for the recruitment, implementation and evaluation of the YMCA Men's Health and Families Program; provided further, that not less than \$50,000 shall be expended to the Franklin Community Action Corporation for youth services; provided further, that \$50,000 shall be expended for programs at the Athol Area YMCA; provided further, that \$100,000 shall be expended for the Nazzaro Recreation Center; provided further, that not less than \$150,000 shall be expended for nonprofit Youth Services in Andover; provided further, that not less than \$50,000 shall be expended for programs at the YWCA of Haverhill; provided further, that \$50,000 shall be expended for the Oak Square YMCA in the Brighton section of the city of Boston; provided further, that not less than \$100,000 be expended for health and wellness programming at the YWCA of Greater Lawrence; provided further, that not less than \$50,000 shall be expended for the Girls Incorporated of Holyoke; provided further, that an amount not to exceed

\$35,000 be provided in a matching grant to United Way of Tri-County for services at the Milford Youth Center; provided further, that not less than \$500,000 shall be expended for youth programs in the commonwealth administered by the Cal Ripken, Sr. Foundation; provided further, that not less than \$100,000 for Dot-Well youth services and out of school time activities; provided further, that not less than \$100,000 shall be expended for the United Teen Equality Center in Lowell; provided further that not less than \$50,000 shall be expended for a one-time matching grant for the YMCA Cape Cod for building purposes to comply with the American with Disabilities Act; provided further, that not less than \$250,000 shall be expended for program and improvements at Children’s Friend and Family Services of Salem and Lynn; provided further, that not less than \$80,000 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 shall be expended for Fit Students for Life, Inc., formerly Boston Boxing and Fitness, Inc.; provided further, that not less than \$40,000 shall be expended for programs at the Fishing Academy, Incorporated; provided further, provided further, that not less than \$5,000 shall be provided for the Gardner Community Action Committee Fellowship Table; provided further, that not less than \$5,000 shall be provided for the Winchendon Community Action Committee Food Bank; and provided further, that not less than \$50,000 shall be expended for the YMCA in East Boston ..... \$5,845,000

4000-0265 For a primary care workforce development and loan forgiveness grant program at community health centers, for the purpose of enhancing recruitment and retention of primary care physicians and other clinicians at community health centers throughout the Commonwealth; provided, that the grant shall be administered by the Massachusetts League of Community Health Centers in consultation with the secretary of the executive office of health and human services and relevant member agencies; provided further, that the funds shall be matched by other public and private funds; and provided further, that the League shall work with said secretary and said

	agencies to maximize all sources of public and private funds .....	\$1,700,000
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 in this item 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 the 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 not less than \$500,000 will be made available for supplemental payments to one or more of the three largest Medicaid participating licensed non-profit chronic and rehabilitation hospitals with less than 500 beds, with Medicaid participation measured and ranked by the number of Medicaid days in the most recently completed fiscal year, but excluding for purposes of this clause any of such hospitals that are authorized to receive supplemental payments pursuant to line items 4000-0500 and 4000-0600; 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 not more than \$250,000 shall be expended to establish the Office of Health Equity within the executive office of health and human services; provided further, that subject to appropriation the executive office of health and human services may employ such additional staff or consultants or as it may deem necessary; provided further, the office may prepare an annual health disparities report card with regional disparities data, evaluate effectiveness of interventions, and replicate successful programs across the state; provided further, the office shall work with a disparities reduction program with a focus on supporting efforts by community-based health agencies and community health workers to eliminate racial and ethnic health disparities, including efforts addressing social factors integral to such disparities; provided further, that expenditures for the purposes of each item appropriated for the purpose of programs authorized 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 the expenditures have been made by the Medicaid management information system; provided further, that no expenditures shall be made for the purpose of programs that are not federally reimbursable, including those related to Titles XIX or XXI of the Social Security Act or the MassHealth demonstration waiver approved under section 115(a) of the act or the Community First section 1115 demonstration waiver, whether made by the executive office or another commonwealth entity, 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 shall not reduce the outpatient rates for any specialty hospital which limits its admissions to patients under active diagnosis and treatment of the eyes, ears, nose, and throat, below that which was granted during hospital fiscal year 2005; 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 the recoveries shall be considered current fiscal year expenditure refunds; 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 the federal financial participation received from claims filed for the costs of outreach and eligibility activities performed by certain community organization under the covering kids initiative, and in accordance with the federal revenue criteria in 45 CFR 74.23 or any other federal regulation which pro-

vides a basis for federal financial participation, shall be credited to this item and may be expended, without further appropriation, on administrative services including those covered under an agreement with the organizations participating in the initiative; provided further, that notwithstanding section 1 of chapter 118G of the General Laws or any general or special law to the contrary, for fiscal year 2009 the definition of a 'pediatric specialty unit' shall mean an acute care hospital with a burn center verified by the American Burn Center and the American College of Surgeons and a level 1 trauma center for pediatrics verified by the American College of Surgeons 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 in calculating rates of payment for children enrolled in MassHealth receiving inpatient services at acute care pediatric hospitals and pediatric subspecialty 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 inpatient SPAD and outlier payments for discharges with a case mix acuity greater than 3.5 shall be at least equal to 85 per cent of the expenses incurred in providing services to those children; provided further, that the executive office shall not reduce the payment rates by no less than 75 per cent for any specialty hospital which limits its services to patients under active diagnosis and treatment of cancer below that which was granted in the previous year; provided further, that notwithstanding 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 the secretary shall ensure that supplemental Medicaid rates required pursuant to section 128 of chapter 58 of the acts of 2006 are implemented in fiscal year 2009; provided further, that the secretary shall ensure that all Medicaid benefit restorations, program expansions, and rate increases required pursuant to chapter 58 of the acts of 2006 are implemented in fiscal year 2009; provided further, that the executive office shall include smoking and tobacco use cessation treatment and information within MassHealth covered services pursuant to section 108 of chapter 58 of the acts of 2006; provided further, that the executive office shall develop a process whereby all participating providers who have signed the Virtual Gateway Services Agreement shall have access to the contents of the consolidated summary of any individual's application submitted through the virtual gateway; provided further, that said information access shall comply with all HIPAA requirements and state privacy laws; provided further, that not later than September 1, 2008, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing planned fiscal year 2009 expenditures by the executive office as funded by chargebacks to the 17 executive office cluster agencies; provided further, that there shall be a health care reform outreach and education unit within the executive office for the purpose of coordinating statewide activities in marketing outreach and the dissemination of educational materials related to the change in laws in chapter 58 of the acts of 2006; provided further, that the unit shall collaborate with the office of Medicaid, the executive office of administration and finance, the division of insurance and the Commonwealth Health Insurance Connector Authority to develop common strategies, best practices, and guidelines for providing informational support and assistance to consumers, employers, and businesses; provided further, that any projection of deficiency in item 4000-0320, 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990, 4000-1400 or 4000-1405, shall be reported to the house and senate committees on ways and means not less than 90 days before the projected exhaustion of funding; and provided further, that

	any unexpended balance in these accounts shall revert to the General Fund on June 30, 2009 . . . . .	\$145,368,773
4000-0301	For the costs of MassHealth provider and member audit and utilization review activities including, but not limited to, eligibility verification, disability evaluations, provider financial and clinical audits and other initiatives intended to enhance program integrity . . . . .	\$2,225,904
4000-0320	For the executive office; provided that the executive office may expend an amount not to exceed \$225,000,000 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 further, 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; and provided further, that the executive office shall file quarterly reports with the house and senate committees on ways and means delineating the amount of current year rebates from pharmaceutical companies or other current year collections which are being used to supplement current year expenditures . . . . .	\$225,000,000
4000-0352	For MassHealth enrollment outreach grants to public and private nonprofit groups to be administered by the executive office in	

consultation with the Health Care Reform Outreach and Education Unit; provided, that grants shall be awarded to groups statewide, including areas in which the United States Census deems there exists a high percentage of uninsured individuals and areas in which there are limited health care providers; provided further, that funds shall be awarded as grants to community and consumer-focused public and private nonprofit groups to provide enrollment assistance, education and outreach activities directly to consumers who may be eligible for MassHealth, the Commonwealth Care Program, or the Commonwealth Choice Program, and who may require individualized support due to geography, ethnicity, race, culture, immigration or disease status and representative of communities throughout the commonwealth; provided further, that funds shall be allocated to provide informational support and technical assistance to recipient organizations and to promote appropriate and effective enrollment activities through the statewide health access network; provided further, that not less than \$350,000 shall be allocated to Community Partners, Inc. of Amherst, to provide online informational support and technical assistance to recipient organizations and to promote appropriate and effective enrollment activities through its statewide health access network; provided further, that the cost of information support and technical assistance shall not exceed 10 per cent of the appropriation and shall not be used to defray current state obligations to provide this assistance; provided further, that in awarding said grants, the executive office of health and human services, in consultation with the Health Care Reform Outreach and Education Unit, shall provide written guidance to selected grantees with specific strategies of how to expend funds in the most efficient manner to target populations and avoid duplication of activities, including examples of best practices among prior year outreach grant recipients; and provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amounts distributed in fiscal year 2009 by February 2, 2009, and the extent to which any portion of resulting expenditures are eligible for federal reimbursement . . . . . \$3,500,000

4000-0355 For the operation of a health care quality and cost council established in section 16K of chapter 6A of the General Laws



to promote high-quality, cost-effective, patient-centered care; provided, that the council shall file quarterly reports with the house and senate committees on ways and means delineating the progress made pursuant to the goals stated in said section 16K of said chapter 6A ..... \$1,888,616

4000-0360 For the health care quality and cost council established pursuant to section 16K of chapter 6A of the General Laws; provided further, that the council may expend an amount not to exceed \$100,000 from the monies received from the sale of data reports; 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 council may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization and the most recent revenue estimate as reported in the state accounting system ..... \$100,000

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 ..... \$111,900,000

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 and for MassHealth benefits provided to children, adolescents and adults under clauses (a) to (d), inclusive and clause (h) of subsection (2) of section 9A and section 16C 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; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that not less than \$2,000,000 shall be expended to an acute care hospital located in Holyoke that provides clinical training programs for nurses, allied health professionals and technicians through affiliations with community colleges and private universities; 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 shall continue to 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 any proposed modifications to said payment system, and a timeline of steps to be taken to implement said modifications; provided further, that notwithstanding any general or special law to the contrary, the

secretary of health and human services shall not reassign to a managed care plan under contract with the office of MassHealth the behavioral health benefit of any eligible person when the benefit is managed by MassHealth’s specialty behavioral health managed care contactor, after the benefit is elected by or initially assigned to that person, unless the person provides written or verbal consent to the reassignment; provided further, that the executive office shall implement payments required pursuant to chapter 58 of the acts of 2006 for the public entity in fiscal year 2009; provided further, that not less than \$10,000,000 shall be expended as payments for pediatric specialty hospitals and units, including pediatric chronic rehabilitation hospitals; provided further, that \$8,000,000 of said \$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; provided further, that \$2,000,000 of said \$10,000,000 shall be expended for a grant to said pediatric chronic and rehabilitation long-term care hospitals for which federal financial participation and federal approval need not be obtained; and provided further, that \$5,950,000 shall be expended on disproportionate share payments to high public payer hospitals ..... \$3,141,085,000

*Executive Office Of Elder Affairs.*

4000-0600 For health care services provided to MassHealth members who are seniors, and for the operation of the senior care options program under section 9D of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that funds shall be expended for the ‘community choices’ initiative; 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 benefits for this demonstration project shall not be reduced below the services provided in fiscal year 2008; provided further, that the eligibility requirements for this demonstration project shall not be more restrictive than those established in fiscal year 2008; 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 2009 delineated by the federal poverty level; provided further, that the report shall be submitted not later than February 2, 2009; provided further, that notwithstanding any general or special law to the contrary, not less than \$5,000,000 shall be expended from this item for the purpose of providing an increase to \$72.80 per month in the personal needs allowance for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income; 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 2009 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, care management under section 3 of chapter 211 of the Acts of 2006 shall be implemented through Aging & Disability Resource Consortiums, which shall include a combination of one or more Aging Services Access Points and Independent Living Centers, and section 2 of section 211, the pre-admission counseling and assessment program, established pursuant to the last paragraph of section 9 of chapter 118E of the General Laws, shall be implemented through the development of said aging and disability resource consortiums; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or non-acute 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 continue to make the standard payment rates established in fiscal year 2006 to reflect the high dietary costs incurred in providing kosher food; provided further, that funds 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; 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; provided further that effective July 1, 2008 for the fiscal year ending June 30, 2009, the division of health care finance and policy shall establish nursing facility MassHealth rates that are \$45 million in payments above the payments made to nursing facilities for the fiscal year ended 2008, for the purpose of funding inflationary labor and benefit costs, funded by any additional funds that may become available in this item due to a decrease in Medicaid utilization and that are not otherwise projected to be expended for other services from this item; provided further, that in the event said additional funds that may become available in this item do not total at least \$45 million, said nursing facility MassHealth rate increase shall be proportionally reduced; provided further, that the secretary of elder affairs and the director of the office of Medicaid shall report monthly to the secretary of administration and finance and to the house and senate committees on ways and means the total projected expenditures from this item and the extent to which said \$45 million nursing facility MassHealth rate increase may be funded in fiscal year 2009; and provided further, that the secretary of elder affairs and the director of the office of Medicaid shall provide a monthly report to the secretary of administration and finance and to the house and senate committees on ways and means showing Medicaid nursing facility utilization in the current fiscal year compared to Medicaid nursing facility utilization in the same period for the prior fiscal year ..... \$2,175,860,000

4000-0640 For nursing facility Medicaid rates; provided, that notwithstanding any general or special law to the contrary, in fiscal year 2009 the division of health care finance and policy shall establish nursing facility Medicaid rates 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; provided further, that the division shall adjust per diem rates to reflect any reductions in Medicaid utilization; provided further, that \$287,950,000 shall be expended for the purposes of Medicaid per diem rate payments to nursing homes participating in the MassHealth program for services provided to MassHealth members during fiscal year 2009; provided further, that the payments made pursuant to this item shall be allocated in the following manner in fiscal year 2009: (1) effective July 1, 2008, 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 not more than \$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, 2008, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes; (3) effective July 1, 2008, 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; provided further, that as a condition for such rate add-on, the division 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; provided further, that 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; provided further, that the division shall credit wage increases that are over any previously collectively-bargained wage increases; provided further, that 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; provided further, that 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; provided further, that in implementing this section, the division shall consult with the Nursing Home Advisory Council; (4) effective July 1, 2008, an annual amount of \$16,450,000: (a) 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, 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 for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes; and (b) to fund rate adjustments to eligible nursing homes that meet utilization standards established by the executive office of health and human services in conjunction with the division for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing homes residents of non-institutional settings; provided further, that to the extent that the annual amount of \$16,450,000 in this clause is not fully allocated, the division shall first provide operating or capital rate adjustments for publicly operated, urban and geographically-isolated nursing homes; 5) \$300,000 for the purposes of an audit of funds distributed under clause (3); provided further, that the division, 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

finances or interest; provided further, that the division shall report to the house and senate committees on ways and means not later than October 1, 2008 a preliminary analysis of funds expended under this subsection in fiscal year 2008 and a description and timeline for auditing of these funds; (6) \$250,000 to fund expenses of the division 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; and provided further, that any additional funds that may become available through this item 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 . . . . . \$288,500,000

4000-0650 For community-based services for elderly and disabled individuals under age 65 provided under the Community First section 1115 demonstration waiver or for costs necessary to prepare for or implement the waiver; provided, that not more than \$5,000,000 may be expended from this item for the purpose of the Rolland vs Cellucci Settlement for the fiscal year 2009 . . . . . \$20,000,000

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, and for MassHealth benefits provided to children, adolescents and adults under clauses (a) to (d), inclusive and clause (h) of subsection (2) of section 9A and section 16C of chapter 118E of the General Laws; provided, that no payments 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 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 children who have aged out of the custody of the department of social services shall be eligible for benefits until they reach age 21; provided further,

that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; 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 the executive office may reduce MassHealth premiums or copayments or offer other incentives to encourage enrollees to comply with wellness goals; provided further, the executive office shall report annually to the joint committee on health care financing and the house and senate committees on ways and means on the number of enrollees who met at least 1 wellness goal, any reduction of copayments or premiums, and any other incentives provided because enrollees met wellness goals; provided further, that the executive office shall not, in fiscal year 2009, fund programs relating to case management with the intention of reducing length of stay for neonatal intensive care unit cases; provided further, that funds may be expended from this item 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; 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, 2009 detailing the activities described in the preceding proviso to be expended from this item during fiscal year 2009; provided further, that not less than \$10,000,000 shall be expended to pay for an increase in Medicaid rates for community health centers, as defined in section 1 of chapter 118G of the General Laws; and provided further, that not less than \$5,000,000 shall be expended for a medical home demonstration program that shall provide targeted, accessible, continuous and coordinated family-centered care to high need populations including, but not limited to, those with multiple chronic illness that require regular monitoring, advising or treatment . . . . . \$1,549,816,000

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 the recipients in prior fiscal years .....	\$122,700,000
4000-0875	For the provision of benefits to eligible women who require medical treatment for either breast or cervical cancer in accordance with 1902(a)(10)(A)(ii)(XVIII) of the Breast and Cervical Cancer Prevention and Treatment Act of 2000, Public Law 106-354, and in accordance with section 10D of chapter 118E of the General Laws; provided, that the executive office shall provide those 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 the benefits shall be extended solely for the duration of the cancerous condition; provided further, that before 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; and provided further, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years .....	\$5,500,000
4000-0880	For MassHealth benefits under clause (c) of subsection (2) of section 9A and section 16C of chapter 118E of the General Laws as amended by chapter 58 of the acts of 2006 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 .....	\$211,100,000
4000-0890	For the cost of health insurance premium subsidies paid to employees of small businesses participating in the insurance reimbursement program under section 9C of chapter 118E of the General Laws, as amended by chapter 58 of the acts of 2006 .....	\$ 40,300,000
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 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 executive office of elder affairs for the purpose of mitigating health insurance costs to the employers and their employees; provided further, that the executive office of health and human services 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; and provided further, that the executive office of health and human services shall seek federal reimbursement for the payments to employers . . . . .	\$5,200,000
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, that the executive office shall, not later than February 16, 2009, report to the house and senate committees on ways and means on the population served by the program delineated by the federal poverty level; and provided further, that funds may be expended from this item for health care services provided to these persons in prior fiscal years . . . . .	\$19,400,000
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 prescreen 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 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; and provided further, that funds may be expended from this item for health care services provided to these persons in prior fiscal years . . . . .	\$16,500,000
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 . . . . .	\$16,591,488
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 of the MassHealth program established in section 9A of chapter 118E of the General Laws; provided further, that persons eligible under subsection (7) of section 16D of said chapter 118E shall be also eligible to receive benefits under this item; 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 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, shall be restricted to certain providers; provided further, that the secretary may limit or close enrollment if necessary in order to ensure that expenditures from this item do not exceed the amount appropriated herein; provided further, however, that no such limitation shall be implemented unless the secretary has given 90 days notice to the house and senate committees on ways and means and the joint committee on health care financing; and provided further, that funds may be expended from this item for health care services provided to recipients in prior fiscal years . . . . .	\$304,600,000



4000-1420 For the purposes of making payment to the federal Centers for Medicare and Medicaid Services in compliance with Title XIX of the Social Security Act, as amended by the Medicare Prescription Drug Improvement and Modernization Act of 2003 ..... \$238,900,000

*Office for Refugees and Immigrants.*

4003-0122 For a Citizenship for New Americans Program to assist legal permanent residents in the commonwealth in becoming citizens of the United States; provided, that the office for refugees and immigrants shall administer the program; provided further, that said program shall be provided through community-based organizations to the maximum extent possible as determined by the office for refugees and immigrants; provided further, that the program funded by this item shall provide assistance to persons who are within 3 years of eligibility to become citizens of the United States; provided further, that services shall be designed to include: ESOL/civics classes, citizenship application assistance, interview preparation and support services such as interpretation and referral services ..... \$650,000

*Division of Health Care Finance and Policy.*

4100-0060 For the operation of the division and the administration of the Health Safety Net Trust Fund established in section 36 of 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 2009, 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 2009 from: (a) filling fees; (b) fees and charges generated by the division's publication or dissemination of reports and information; and (c) 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 total expenses appropriated for the division in the health safety net office; provided further, that the division shall promulgate regulations requiring all hospitals receiving payments from the Health Safety Net Trust Fund 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 reports to the house and senate committees on ways and means 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 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 and the joint committee on health care financing not later than December 8, 2008 a report detailing utilization of the Health Safety Net Trust Fund; provided further, that the report shall include: (a) the number of persons in the commonwealth whose medical expenses were billed to the Health Safety Net Trust Fund in fiscal year 2008; (b) the total dollar amount billed to the Health Safety Net Trust Fund in fiscal year 2008; (c) the demographics of the population using the Health Safety Net Trust Fund and (d) the types of

services paid for out of the Health Safety Net Trust Fund in fiscal year 2008; 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 those individuals to the Health Safety Net Trust Fund; 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 the division shall prepare a report on the savings realized by the MassHealth Pharmacy Program, for the first 3 months of fiscal year 2009, as a result of the reimbursement rate reductions for multiple source drugs for which upper limits have been set by the federal centers for Medicare and Medicaid services; provided further, that using said data, the division shall also estimate the program savings for fiscal year 2009; provided further, that the division shall forward a copy of this report to the secretary of administration and finance, and to the house and senate committees on ways and means no later than November 15, 2008; provided further the division, after consultation with the secretary and the chairs of the senate and house committees on ways and means, may adjust pharmacy dispensing fees for multiple source prescription drugs to compensate for any reduction as a result of the upper limits implemented under the Deficit Reduction Act of 2005; provided further, that the division shall submit to the house and senate committees on way and mean and the joint committee on heath care financing, not later than December 8, 2008, a report detailing rate or other payment appeals submitted to the division by skilled nursing



facilities and rest homes including: (a) the initial date of appeal; (b) the amount of payment in dispute; (c) the status of each appeal; and (d) the commonwealth's response and date issued; provided further, that not less than \$500,000 shall be expended to examine the factors that contribute to the cost increases of the health care delivery system and strategies employed by the provider community to reduce cost growth; provided further, that in preparing its report the division shall conduct a public hearing on the matter; and provided further, that the division shall submit its findings to the joint committees on health care financing and the house and senate committees on ways and means no later than February 16, 2009; provided further, that the division shall provide a quarterly report on the projected costs and enrollment figures of Commonwealth Care and shall file the report with the clerks of the senate and house of representatives . . . . . \$17,513,039

**OFFICE OF 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, 4110-3010 and 4110-4000; provided further, that the amount transferred from any of those items 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 2009 that extend or expand services beyond the level of services provided in fiscal year 2008 shall not annualize above those amounts in fiscal year 2010 . . . . . \$1,168,989
- 4110-1000 For the community services program; provided, 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; provided further, that not less than \$500,000 shall be expended for the talking information center; provided further, that not less than \$450,000 shall be expended for the

	deaf-blind community access network; provided further, that not less than \$10,000 shall be expended for the Audible Local Ledger of Falmouth; and provided that not less than \$150,000 shall be expended to provide adaptive technology services for school-age children who are blind to ensure increased competence in the use of technological equipment and academic and professional development and self sufficiency . . . . .	\$4,545,633
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 . . . . .	\$369,796
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 . . . . .	\$10,663,291
4110-3010	For a program of vocational rehabilitation for the blind in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grants or state appropriation shall be deducted for pensions, group health and life insurance, or any other such indirect cost of federally reimbursed state employees . . . . .	\$3,045,455
4110-4000	For the administration of the Ferguson Industries for the Blind; provided, that retired workshop employees shall receive grants equal to three-fourths of the salaries of current workshop employees; and provided further, that any funds received for goods and services purchased by private and public sector entities at Ferguson Industries shall be remitted to the General Fund . . . . .	\$1,923,538

*Massachusetts Rehabilitation Commission.*

4120-1000	For the operation of the commission; provided, that the commissioner may transfer funds between items 4120-1000,	
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4120-2000, 4120-3000, 4120-4000, 4120-4001, 4120-4010, 4120-5000, and 4120-6000; provided further, that the amount transferred from any of those items 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 2009 shall not annualize above those amounts in fiscal year 2010; 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 ..... \$647,128

4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance and any other such indirect cost of the federally-reimbursed state employees; provided further, that 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 neighborhood of Boston for people with disabilities and provided further that not less \$100,000 shall be expended for services provided by the Life Focus Center in the Charlestown neighborhood of Boston ..... \$10,982,471

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 neighborhood of Boston for people with disabilities; and provided further, that not less than \$100,000 shall be expended for the Charlestown Navy Yard project for disabled adults in the Charlestown neighborhood of Boston .....	\$8,561,446
4120-4000 For independent living assistance service; provided, that \$3,840,000 shall be expended for the independent living centers contracted with the commission; provided further, that not less than \$949,295 shall be expended for assistive technology devices and training for individuals with severe disabilities; provided further, that not less than \$200,000 shall be expended for the SHARE Foundation at the University of Massachusetts at Dartmouth; provided further, that not less than \$100,000 shall be expended for the Joseph F. Timilty Adult Day Health and Memory Loss Center; and provided further, that not less than \$25,000 shall be expended on Living Independently for Equality, Inc. of Brockton for the operation of participants to meet other physically challenged individuals and take part in a number of therapeutic activities .....	\$12,449,034
4120-4001 For the housing registry for the disabled .....	\$88,889
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 \$1,572,888 in state fiscal year 2010 .....	\$884,393
4120-5000 For homemaking services .....	\$5,868,362
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; 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 .....	\$10,933,588

*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	\$5,783,283
4125-0102	For the costs associated with the provision of interpreter services for the deaf and hard of hearing at state house public hearings and events	\$12,120

*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 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 2008; provided further, that no new fee, assessment or other charge shall be implemented in fiscal year 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after December 1, 2008; and provided further, that after December 1, 2008, no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services	\$26,968,587
4180-1100	The Soldiers' Home in Massachusetts may expend not more than \$300,661 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; provided further, that the Soldiers' Home may accept gifts, grants, donations and bequests; 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 . . . . . \$300,661

*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 2008; provided further, that no new fee, assessment or other charge shall be implemented in fiscal year 2009 except those associated with the use of telephones and televisions; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services . . . . . \$20,322,654
- 4190-0101 For the Soldiers' Home in Holyoke which may expend for its operation an amount not to exceed \$82,709 from the licensing of the property for placement of aerial antennas . . . . . \$82,709
- 4190-0102 The Soldiers' Home in Holyoke may expend for the outpatient pharmacy program an amount not to exceed \$150,805 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 2008 . . . . . \$150,805
- 4190-0200 The Soldiers' Home in Holyoke may expend not more than \$25,000 from fees collected from veterans in its care for the purposes of providing television and telephone services to residents; provided, that fees from the use of telephones and televisions shall only be expended for payments to vendors for said services . . . . . \$25,000
- 4190-1100 For the Soldiers' Home in Holyoke which may expend not more than \$225,000 for facility maintenance and patient care, including personnel costs; provided, that 40 per cent of all revenues generated pursuant to section 2 of chapter 90 of the



General Laws through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with the license plates, shall be deposited into and for the purposes of this retained revenue account of the Soldiers' Home; provided further, that the Soldiers' Home may accept gifts, grants, donations, and bequests; 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 . . . . . \$225,000

*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 elementary and secondary 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; provided further, that the department shall continue to execute its education funding initiative; provided further, that the commissioner of youth services, in conjunction with the department of elementary and secondary education, shall submit a report on progress made and projected needs in fiscal years 2009 and 2010 to the house and senate committees on ways and means by December 1, 2008; and provided further, that the department shall expend not more than \$300,000 on the juvenile case management system . . . . . \$5,657,621

4200-0100 For supervision, counseling and other community-based services provided to committed youths in nonresidential care programs of the department; provided, that not less than \$300,000 shall be expended to provide career services to youth in the department's care; provided further, that funding shall be expended for the restoration of the Northeast Region; provided further, that not less than \$400,000 shall be expended for the Boston juvenile re-entry program; provided

	further, 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 to the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer . . . . .	\$22,828,627
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, 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 . . . . .	\$25,719,287
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 to address the needs of the female population; provided further, that funds shall be expended to address suicide prevention; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after March 15, 2009; and provided further, that after March 15, 2009, no charge or contract shall be made with alternate vendors to provide pharmacy services other than the state office of pharmacy services; provided further, that not less than \$600,000 shall be expended on vocational training in order to reduce recidivism; provided further, that the commissioner may transfer up to 7 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 . . . . .	\$105,563,546
4200-0500	For the department of youth services' education system; provided, that not less than \$3,300,000 shall be expended for the enhancement of salaries for teachers . . . . .	\$3,300,000

*Department of Transitional Assistance.*

4400-1000 For the central administration of the department of transitional assistance; provided, that during fiscal year 2009 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 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 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, 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; provided further, that the



department shall report to the house and senate committees on ways and means no later than December 15, 2008 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; and provided further that not less than \$800,000 shall be expended for the operation of the homeless management information system . . . . . \$68,136,719

4400-1001 For programs to increase the commonwealth's participation rate in food stamps and other federal nutrition programs; provided, that not less than \$1,500,000 shall be expended for a grant with Project Bread-The Walk for Hunger, Inc. which shall be solely responsible for administering a comprehensive, community-based program to alleviate and prevent hunger and to expand participation in federal nutrition programs; provided further, that Project Bread shall focus on communities in Massachusetts with the highest rates of hunger as defined by the United States Census Bureau; provided further, that Project Bread shall develop a strategic plan to alleviate hunger; provided further, that Project Bread shall support research relative to the prevention and effect of hunger; provided further, that not less than \$250,000 shall be expended for the Food Source Hotline; provided further, that the work of department employees paid for from this item shall be restricted to processing food stamp applications; provided further, that the department shall not require food stamp applicants to provide re-verification of eligibility factors previously verified and not subject to change; provided further, that, notwithstanding any general or special law to the contrary, the department shall require only 1 signature from food stamp applicants; provided further, that the department shall report to the house and senate committees on ways and means not later than December 1, 2008 on the status of these programs; provided further, that Project Bread shall file with the clerk of the house of representatives and the clerk of the senate an annual report on the status of hunger in the commonwealth and a detailed explanation of the hunger prevention strategies that have been developed and implemented not later than December 1, 2008;

	provided further, that the department shall fund a unit staffed by department employees to respond to food stamp inquiries, and arrange for and conduct telephone interviews for initial food stamp applications from this item; provided further, that the department shall fund a system to image and catalogue eligibility documents electronically from this item; and provided further, that not less than \$350,000 shall be expended for food stamp outreach . . . . .	\$2,932,760
4400-1025	For domestic violence specialists at local area offices . . . . .	\$722,345
4400-1100	For the payroll of the department's caseworkers; provided, that only employees of bargaining unit eight shall be paid from this item . . . . .	\$58,872,706
4401-1000	For employment and training services, including support services, for recipients of benefits provided under the transitional aid to families with dependent children; provided, that funds from this item may be expended on former recipients of the program for up to 1 year after termination of their benefits; provided further, that not less than \$4,600,000 shall be expended for the Young Parents Program; and provided further, that certain parents who have not yet reached the age of 18 years, including those who are ineligible for transitional aid to families with dependent children and who would qualify for benefits under chapter 118 of the General Laws but for the deeming of the grandparents' income, shall be eligible to receive services . . . . .	\$27,720,672
4401-1100	For the department of transitional assistance which may expend not more than \$7,000,000 from federal bonuses and from reimbursements 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 dependant children . . . . .	\$7,000,000
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 2008 unless the department determines that a reduction in the monthly payment standard should be implemented before the end of the fiscal year to keep program expenditures within the amounts appropriated in this item; 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 subsection (e) of section 110 of chapter 5 of the acts of 1995, or any successor statute, shall be 2.75 per cent below the otherwise applicable payment standard, in fiscal year 2009, pursuant to the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify parents under the age of 20 receiving benefits from the program of the requirements found in clause (2) of subsection (i) of said section 110 of said chapter 5 of the acts of 1995, or any successor statute; 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 2008; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September 2008; 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 under chapter 119 of the General Laws, 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 the payments are to be made or within the 3 month period after the month of payment, and who, if the 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 the loss; provided further, that the department shall review its disability standards to determine the extent to which they reflect current medical and vocational criteria and report to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities on the results of that review before any changes to the standards are proposed; 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 at the time of application and 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 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 not less than \$418,074 shall be expended for the purposes of the operation of the transportation assistance program operated by Traveler's Aid Family Services; provided further, that not less than \$150,000 shall be expended for the lift transportation program operated by Traveler's Aid Family Services; 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 detailed and comprehensive report setting forth the text of, basis, and reasons for the proposed changes; and provided further, that the report shall state the department's most accurate assessment of the probable effects of benefit or eligibility changes upon recipient families ..... \$302,742,675

4403-2007 For the department of transitional assistance to develop and implement a nutritional benefit program for low-income workers; provided, that benefits shall be provided only to those for whom receiving these benefits will improve the work participation rate under the federal program of temporary assistance for needy families ..... \$1,200,000

4403-2119 For the provision of structured settings as provided in subsection (i) of section 110 of chapter 5 of the acts of 1995, or any successor statute, for parents under the age of 20 who are receiving benefits under the transitional aid to families with dependent children program ..... \$6,927,953

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, Hampden 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 may 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, that 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 non-shelter benefit; provided further, that the department shall make every effort to ensure 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 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 shelter benefits received under the preceding proviso shall not render a family ineligible under any regulation providing that



a family who previously received shelter is ineligible for shelter benefits for a period of 12 months; provided further, that families receiving such shelter benefits who are found not to be eligible for continuing shelter benefits shall be eligible for aid pending a timely appeal pursuant to section 16 of chapter 18 of the General Laws; 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 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 on the emergency assistance family shelter program; provided further, that the report shall contain the same data required in this item in chapter 139 of the acts of 2006; provided further, that the Massachusetts Coalition for the Homeless First Stop Homelessness Prevention Initiative and the Horizons for Homeless Children Playspace Program shall receive not less than the same amount of funding as in fiscal year 2008; provided further, that not less than \$1,668,180 shall be expended for

the Housing Assistance Program operated by Community Action Programs Inter-City, Inc.; provided further, that contract (RPO) SCWELL 4092500010000 with Open Pantry Community Services, Inc., be an amount not less than \$545,195; provided further, that an amount not less than \$179,381 shall be expended for the Crossroads Family Shelter in East Boston; provided further, that not less than \$100,000 shall be expended for a contract with Project Just Because, a non-profit organization in the town of Hopkinton, to assist in providing food, supplies, and services to the indigent and those in danger of becoming homeless across the MetroWest region; provided further, that not less than \$50,000 shall be expended for the Weymouth Youth and Family Services Teen Center to provide for advocacy, social service programs and to promote growth, social welfare and education; provided further, that \$25,000 shall be expended for education, advocacy and case management services by Casa Latina, located in the City of Northampton; and provided further, that not less than \$25,000 shall be expended for the River House shelter in Beverly . . . . . \$87,224,342

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 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 . . . . . \$219,304,536

4406-3000 For the homelessness program to assist individuals who are homeless or in danger of becoming homeless, including as-

sistance to organizations which provide food, shelter, housing search and limited related services to the homeless and indigent; provided, 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 organizations which received funds through this item in fiscal year 2008 shall receive not less than that same percentage share of this appropriation in fiscal year 2009; provided further, that no funds shall be expended for costs associated with the homeless management information system; and provided further, that funds appropriated to this item from item 1599-6901 shall be calculated and distributed separately from any additional rate increase provided ..... \$36,281,684

4406-3010 For a grant to the Home and Healthy for Good program operated by the Massachusetts Housing and Shelter Alliance for the purpose of reducing the incidence of chronic homelessness in the commonwealth; provided, that the Massachusetts Housing and Shelter Alliance shall be solely responsible for the administration of this program; provided further, that the Massachusetts Housing and Shelter Alliance shall file a report with the clerks of the house and senate, the commissioner of the department of transitional assistance, and the chairs of the house and senate committees on ways and means no later than March 2, 2009, detailing the implementation of this program; and provided further, that the report shall include information on the number of people served, the average cost per participant, the demographics of those served, whether participants have previously received government services and any projected cost-savings in other state-funded programs ..... \$1,200,000

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 the aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or non-citizens



otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the individual shall not be a subject to sponsor income deeming or related restrictions; 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 said chapter 118 and under the separate program; provided further, that no ex-offender, person over age 45 without a prior work history or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that 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 adopt 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 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 to the contrary, 60 days before implementing any eligibility or benefit changes, 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 ..... \$72,476,084

**OFFICE OF HEALTH SERVICES.**  
*Department of Public Health.*

4510-0100 For the operation of the department; provided, that the department of public health shall report to the joint committee on public health, the joint committee on health care financing, and the house and senate committees on ways and means not later than February 2, 2009, on the impact of increased private

and public health insurance coverage, pursuant to chapter 58 of the acts of 2006, and on the utilization and financial needs of public health programs; and provided further, that the report shall include, but not be limited to, the following: (a) an estimate of cost-savings to public health programs generated by increased public and private health insurance coverage in the commonwealth; (b) an assessment of the utilization of public health programs since 2006 including, early intervention services, state laboratory testing services, communicable disease testing services, HIV and AIDS-related services, substance abuse treatment services, family planning services, immunizations, and disease prevention and management services; (c) an assessment of the extent to which health insurance carriers offer benefits coverage for health services provided by public health programs; and (d4) any regulatory, legislative and other recommendations necessary to identify and recoup payment for public health services from liable private insurance carriers and other parties in order to minimize costs to the commonwealth . . . . 21,911,667

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 \$35,000 shall be expended from revenues associated with grant and development activities . . . . \$35,000

4510-0110 For community health center services; provided, that no funds shall be expended in the AA object class; provided further, that \$1,000,000 shall be expended for the managed care program at community health centers known as CenterCare; 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); provided further, that \$300,000 shall be expended for medical respite services provided by the Boston health care for the homeless program; provided further, that not less than \$200,000 shall be expended for the Community Health Center of Cape Cod; provided further, that not less than \$150,000 shall be expended for the Duffy Health Center; provided further, that not less than \$150,000 shall be expended for the Manet Community Health Center; provided



further, that not less than \$125,000 shall be expended for Merrimack Valley Hospice Home Care; and provided further, that \$40,000 shall be expended for the Dismas House at the Worcester county house of correction . . . . . \$7,765,753

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 bureau of environmental health assessment pursuant to chapter 111F of the General Laws 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 \$195,000 shall be expended for the purpose of the director of the bureau of environmental health assessment of the department 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 2, 2009; provided further, that the department shall file a report with the house and senate committees on ways and means, the joint committee on public health, and the joint committee on health care financing, on the status of local health inspections of food establishments, consistent with the department of public health food safety regulations and a report on the current waiting list for indoor air inspections by October 1, 2008; provided further, that not more 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 \$150,000 shall be expended for the completion of the comprehensive study of the exposure routes and patterns of contaminants in the Maple Meadowbrook Aquifer migrating to and affecting the Wilmington drinking water supply and the study of incidents of childhood cancer in the town of Wilmington; and provided further, that not less than \$75,000 shall be expended for the purposes of research and prevention activities associated with Lyme Disease to be conducted by the Barnstable County Department of Health and The Environment ..... \$4,133,923

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 \$1,426,652 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 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 .. \$1,576,652

4510-0616 The department may not expend more than \$608,831 for a drug registration and monitoring program from revenues collected from fees charged to registered practitioners, including physicians, dentists, veterinarians, podiatrists and optometrists for controlled substance registration; provided, that funds may be expended from this item for the costs of personnel; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ..... \$608,831

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 investigators shall conduct investigations of abuse, neglect, mistreatment and misappropriation; 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 in the office of the attorney general; 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 care giving and the culture of workforce retention within the facilities and shall focus on systemic ways to reduce deficiencies; provided further, that investigators shall conduct investigations of abuse, neglect, mistreatment and misappropriation; 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; provided further, that services funded through this item shall include, but not be limited to: education, training, intervention, support, surveillance and evaluation; provided further, that the department shall report to the house and senate committees on ways and means on the results of the program not later than April 30, 2009; provided further; that not less than \$100,000 be expended to oversee the operation and administration of the Massachusetts primary stroke Service Designation Hospital programs established by 105 CMR (130.1400), provided that all fund shall be used for the purpose of collecting and analyzing data from all primary stroke service designated hospitals in the commonwealth and for a full time surveyor for the purpose of ensuring compliance with primary stroke center designation criteria;



	and provided further, that \$40,000 shall be expended for Bedside Advocates, Inc. for the development of a pilot project focused on transitional care for geriatric patients transitioning to their homes from acute care hospitals; . . . . .	\$8,817,714
4510-0712	For the department of public health; provided, that the department may expend not more than \$530,387 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 lesser of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . . .	\$1,330,387
4510-0715	For the operation of a center for primary care recruitment and placement to improve access to primary care services; provided, that not less than \$500,000 shall be expended for a primary care workforce development and loan forgiveness grant program . . . . .	\$850,000
4510-0716	For the operation of an evidence-based outreach and education program designed to provide information and education on the therapeutic and cost-effective utilization of prescription drugs to physicians, pharmacists and other health care professionals authorized to prescribe and dispense prescription drugs . . . . .	\$500,000
4510-0720	For a scholarship program for certified nurses' aide and direct care worker training; provided, that recipients of the scholarship shall commit to working in the commonwealth for 2 years following certification; provided further, that no funds shall be expended in the AA object class; 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 shall also be available to provide adult basic education and English	

as a second language training for applicants otherwise meeting criteria for the scholarships, as well as pilot training programs using enhanced curricula designed to support increased retention; provided further, that the department shall, in consultation with the nursing home industry, consumer groups, the department of labor and workforce development, 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 operation and administration 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 these 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 the 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 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 errors; and provided further, that the board shall submit the compilation to the house and senate committees on ways and

	means, the joint committee on health care financing, the joint committee on public health and the commissioner of the department of public health by January 4, 2009, 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 . . . . .	\$1,725,170
4510-0722	For the operation and administration 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 these 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 the 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 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, 2009, 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 . . . . .	\$541,311
4510-0723	For the operation and administration of the board of registration in 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 such cases, the approximate number of cases assigned to each investigator, any increases or decreases in cases referred to the	



	board in the previous 6 months, a compilation of cases from its patient care assessment program describing incidents involving preventable medical error that resulted in harm to patient or health care provider for the purpose of assisting the providers, hospitals and pharmacies to modify their practices and techniques to avoid error and any other relevant topics; provided further, that the board shall submit the report to the general court, house and senate committees on ways and means and the joint committee on health care financing and the joint committee on public health by January 4, 2009, 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 registration in nursing and pharmacy . . . . .	\$2,670,027
4510-0725	For the operation and administration of certain health boards of registration, including the boards of registration in dentistry, nursing home administrators, physician assistants, perfusionists, genetic counselors and respiratory care . . . . .	\$472,097
4510-0726	For the board of registration in medicine, including the physician profiles program; provided, that the board 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; provided further, that the regional emergency medical services councils, designated under 105 CMR 170.101 and the C-MED medical emergency communications centers that were in existence on January 1, 1992, shall remain the designated councils and C-MED communications centers . . . . .	\$1,246,896
4510-0810	For a statewide sexual assault nurse examiner program and pediatric sexual assault nurse examiner program for the care of victims of sexual assault; provided, that funds shall be expended for a contract with the Massachusetts Children's Alliance to support children's advocacy centers; provided further, that the program shall be established by the department to operate under specific statewide protocols and by an on-call system of nurse examiners; and provided further, that the department may designate a metrowest district and may expend funds within said district . . . . .	\$3,623,068

4512-0103	For human immunodeficiency virus and acquired immune deficiency syndrome services and programs; provided, that no funds shall be expended in the AA object class; provided further, that particular attention shall be paid to direct funding proportionately to 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 no funds from this item shall be expended for disease research in fiscal year 2009 and provided further that not less than \$500,000 shall be spent to reduce HIV/AIDS disparities in communities of color, including African American, Latino, immigrant and refugee populations, linguistic minorities, and other populations disproportionately at risk, for prevention and education programs, counseling and testing, and treatment and supportive services .....	\$37,666,608
4512-0106	For the department of public health which may expend for the human immunodeficiency virus and acquired immune deficiency syndrome drug assistance program an amount not to exceed \$1,500,000 from revenues received from pharmaceutical manufacturers participating in the section 340B rebate program of the Public Health Service Act, administered by the federal Health Resources and Services Administration and Office of Pharmacy Affairs .....	\$1,500,000
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; provided further, that not less than \$3,000,000 shall be expended for the establishment of 60 community-based beds in locked-down, non-correctional settings for men who have been civilly committed to a substance abuse treatment program pursuant to section 35 of chapter 123 of the General Laws; provided further, that not less than \$1,500,000 shall be expended for 3 Sobriety High Schools; provided further, that not less than \$1,500,000 shall be expended for maintaining the substance abuse and mental health programs in houses of correction in Hampden county, Norfolk county, Middlesex	

county and Barnstable county; provided further, that 1 counselor shall continue to be assigned for every 200 inmates within each facility; provided further, that not less than \$1,149,750 shall be expended to the Gavin Foundation for a male adolescent residential facility for substance abuse and rehabilitation services and an adjoining female adolescent residential facility for substance abuse and rehabilitation services, both operated by the Cushing House located in the South Boston section of Boston; provided further, that not less than \$933,000 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 \$750,350 shall be expended for a contract with STEP, Inc., for sobriety treatment, education and prevention; provided further, that not less than \$500,000 shall be provided to the Essex county district attorney to continue to develop a pilot program for non-violent offenders in a non-correctional locked down substance abuse treatment facility; provided further, that not less than \$500,000 shall be expended for maintaining the substance abuse and mental health programs in houses of correction in Hampden County; provided further, that \$500,000 shall be expended for an opiate education and counseling competitive grant program in Suffolk county; provided further, that not less than \$475,000 shall be expended to fund 10 beds through the CAB program in conjunction with the H.E.A.T. program at Woburn the division of the district court; provided further, that not less than \$400,000 shall be provided to the Boston municipal court to fund treatment coordinators for the drug court program to treat nonviolent, substance-abusing offenders; 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 departments of the South Boston division of the district court, the Somerville division of the district court, the Hingham division of the district court, the Brighton division of the district court, 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 \$300,000 shall be



expended for the Hampden county Residential Program For Women; provided further, that not less than \$250,000 shall be expended for the Albany Street Shelter operated by Cambridge and Somerville Program for Drug and Alcohol Rehabilitation or CASPAR; provided further, that not less than \$250,000 shall be expended for the New Beginnings program; provided further, that not less than \$250,000 shall be expended for Phoenix House, for the purposes of establishing an independent 18-bed women's sober-living facility in the Dorchester section of the city of Boston, for females with alcohol and chemical dependency; provided further, that not less than \$225,000 shall be expended for the operation of the Barnstable Action for New Directions (BAND) program facilitated by the 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 expended for a substance abuse treatment program for children in the custody of the department of youth services; 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 not less than \$200,000 shall be expended for The Gavin Foundation, Inc. to provide drug and alcohol abuse prevention education through the Speakers for Hope Program; provided further, that \$200,000 shall be expended for the Massachusetts Interscholastic Athletic Association's substance abuse program; provided further, that not less than 158,000 shall be expended for the Haitian Multi-Service Center in the Dorchester section of Boston; provided further, that not less than \$155,000 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 \$150,000 shall be expended to the Berkshire County Youth Development Project for youth intervention services; provided further, that there shall be a recovery support center in each region; provided further, that not less than \$150,000 shall be expended on the Hampden County Residential Program for Women; provided further,

that not more than \$150,000 shall be expended for the Hampden County Sheriff to operate an innovative residential program for recently released female offenders in the Springfield area; provided further, that not less than \$150,000 shall be expended for the Lowell House; provided further, that \$150,000 shall be expended for the Northern Educational Services, Inc., in Springfield, to operate the Youth Zone Program; provided further, that not less than \$145,000 shall be expended for the Arlington Youth Consultation Center; provided further, that not less than \$145,000 shall be expended in grants for the Framingham Coalition for the Prevention of Drug and Alcohol Abuse; provided further, that not less than \$125,000 shall be expended for Self Esteem Boston's substance abuse direct service prevention programs and provider training programs; provided further, that not less than \$100,000 shall be expended for the substance abuse prevention programs of the Arlington Youth Health and Safety Coalition; provided further, that not less than \$100,000 shall be expended for a contract with Bay Cove Human Services, Inc. for the purpose 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 not less than \$100,000 shall be expended for New North Citizens' Council, Inc. Springfield Women's Addiction-Recovery Network; 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 \$100,000 shall be expended for the prevention of substance abuse in the town of Saugus; provided further, that not less than \$100,000 shall be expended to the Springfield Public Health Department for drug prevention outreach and education; provided further, that not less than \$100,000 shall be expended for the Winchester Substance Abuse Coalition in the town of Winchester; 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 \$75,000 shall be expended to continue

an Opiate Abuse Prevention and Intervention Program for Youth in the city of Melrose; provided further, that not less than \$75,000 shall be expended for the Charlestown Substance Abuse Coalition for securing placement of at-risk adults in job-training programs, apprenticeships and permanent employment; provided further, that not less than \$75,000 shall be provided to Second Step, Inc. in the city of Newton for the provision of substance abuse prevention and education programs to the survivors of domestic violence and their children; provided further, that not less than \$75,000 shall be expended for the Tynan Community Center's Adolescence Wellness Program in the South Boston section of the city of Boston; provided further, that not less than \$70,000 shall be expended for the Adolescent Education program of the South Boston Neighborhood House in the South Boston section of the city of Boston; provided further, that no 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 heroin use; provided further, that not less than \$50,000 shall be expended for teens through programs provided by the Ashland Recreational Department; provided further, that not less than \$50,000 shall be expended for the Exodus Outreach Recovery Program; 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 \$30,000 shall be expended for the Boat People SOS, Inc. Bilingual Community Liaison Project in Springfield; and provided further, that not less than \$20,000 shall be provided for Stand Down Bilingual outreach center in the city of Springfield . . . . . \$80,557,456

4512-0201 For substance abuse step-down recovery services, otherwise known as level B beds and services, and other critical recovery services with severely reduced capacity; provided, that no funds shall be expended in the AA object class; provided further, that not less than \$200,000 shall be expended for the Northern Educational Services (NES), Inc., so-called, to provide recovery services for 40 men by setting-up housing consisting of a 13 bed residency in Springfield; and provided further, that the department shall submit quarterly to the house and senate committees on ways and means a report on



	the number of individuals served by the step-down recovery services program . . . . .	\$5,000,000
4512-0202	For 2 pilot pre-arraignment jail diversion programs primarily for nonviolent offenders with OxyContin or heroin addiction to be procured by the department of public health; provided, that each program shall have at least 60 beds and shall provide clinical assessment services to the respective courts, inpatient treatment for up to 90 days and ongoing case management services for up to one year; provided further, that individuals may be diverted to this or other programs by a district attorney in conjunction with the office of the commissioner of probation if: (a) there is reason to believe that the individual being diverted suffers from an addiction to OxyContin or heroin, or other substance use disorder; and (b) the diversion of an individual is clinically appropriate and consistent with established clinical and public safety criteria; provided further, that both programs shall be established in separate counties and a location deemed suitable by the department of public health; provided further, that the department of public health shall coordinate operations with county sheriffs, the district attorneys, the office of the commissioner of probation and the department of correction; provided further, that not more than \$500,000 may be used to support the ongoing treatment needs of clients post 90 days for which there is no other payer; and provided further, that the department of public health shall provide an annual report to the joint committee on mental health and substance abuse and the house and senate committees on ways and means as to the outcomes of the program and the cost of operations . . . . .	\$5,000,000
4512-0225	The department of public health may expend not more than \$1,000,000 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; 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 lesser of this authorization or the most recent revenue estimate therefor as reported in the state accounting system ..... \$1,000,000

4512-0500 For dental health services; provided, that no funds shall be expended in the AA object class; provided further, that funds shall be expended to maintain a program of dental services for the developmentally disabled; 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; provided further, that not less than \$90,000 shall be expended to The Community Coalition of Cape Cod Inc. for support and implementation of a model dental program that provides comprehensive dental care for low-income uninsured adults throughout Cape Cod; provided further, that not less than \$150,000 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; provided further, that \$750,000 shall be expended for the Forsyth Institute’s Center for Children’s Oral Health to fund a school-based demonstration project to offer preventive oral health care to children in high need areas including Boston, Lynn, and the Cape and Islands; and provided further, that not less than \$500,000 shall be expended on the open wide health pilot program in Hampden county ..... \$3,147,016

4513-1000 For the provision of family health services; provided, that no funds shall be expended in the AA object class; provided further, that not less than \$6,000,000 shall be provided for comprehensive family planning services, including HIV counseling and testing, community-based health education and outreach services, provided by agencies certified as comprehensive family planning agencies; provided further, that \$25,000 shall be expended for regional respite, counseling and holistic therapy services offered by the Cancer Connection, located in the city of Northampton; provided further, that not less than \$50,000 shall be provided for the Molly Bish Institute for Child Safety at Mt. Wachusett Community College; provided further, that not less then \$100,000

	shall be expended for the Massachusetts Sudden Infant Death Center at Boston Medical Center; provided further, that not less than \$350,000 be expended for the operations of the Regional Poison Control Center, located at the Children's Hospital in Boston; provided further, that not less than \$350,000 shall be expended for ROCA, Inc. for outreach and youth development for at-risk youth and young adults in Chelsea, Revere, and East Boston; provided further, that of said \$350,000, not less than \$150,000 shall be expended for such programs in the Bowdoin/Geneva and the Uphams Corner/North Dorchester sections of Boston; provided further, that not less than \$35,000 shall be expended for the Immigrants Assistance Center, Inc., in New Bedford for its unique bilingual AIDS education; provided further, that not less than \$10,000 shall be expended for the Cancer House of Hope in the city of Westfield; provided further, that \$450,000 shall be expended for the Massachusetts Birth Defects Monitoring Program; provided further, that not less than \$50,000 shall be expended for Falmouth Family Planning; and provided further, that \$200,000 shall be expended for an elder health and outreach program in Saugus .....	\$7,620,000
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; provided further, that all new WIC cases, in excess of fiscal year 1991 caseload levels, shall be served in accordance with priority categories 1 through 7, as defined by the state WIC program; and provided further, that not less than \$680,000 shall be expended for the Growth and Nutrition Program .....	\$13,565,092
4513-1010 For	the department of public health; provided, that said department may expend not more than \$6,500,000 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 further, 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 .....	\$6,500,000



- 4513-1012 The department of public health may expend not more than \$24,600,000 from revenues received from the federal cost-containment initiatives including, but not limited to, infant formula rebates; provided, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most-recent revenue estimate as reported in the state accounting system ..... \$24,600,000
- 4513-1020 For the early intervention program; provided, that no funds shall be expended in the AA object class; 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 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 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 2, 2009; 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 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 early intervention services funded in this item; provided further, that funds from this item may be expended for a rate increase; 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 the department shall provide written notification to the senate and house committees on ways and means 90 days prior to any change to its current eligibility criteria . . . . .	\$42,936,049
4513-1023	For the universal newborn hearing screening program; provided, that no funds shall be expended in the AA object class; 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 . . . . .	\$84,076
4513-1024	For the operation of a comprehensive, state-wide shaken baby syndrome prevention program including community-based, hospital-based and statewide activities; provided, that services funded through this item shall include, but not be limited to: education, training, intervention, support, surveillance and evaluation . . . . .	\$350,000
4513-1026	For the provision of statewide and community-based suicide prevention, intervention, post-intervention, and surveillance activities and the implementation of a statewide suicide prevention plan; provided, that funds shall be expended for the costs of a collaborative study with the Geriatric Mental Health Services program within the department of elder affairs for the purpose of creating a program to address elder suicide behavior and attempts; provided further, that funds shall be expended for a Veterans in Crisis Hotline; provided further, that the hotline shall be for the use of veterans who seek counseling programs operated by the department of veterans affairs and/or concerned family members of those veterans so that they may be directed towards the programs and services offered by their local or regional VA office; and provided further, that the hotline shall be staffed by counselors or outreach programs contracted by the department and trained in issues of mental health counseling and veterans services . . . . .	\$4,753,239

- 4513-1111 For the promotion of health and disease prevention including, but not limited to, the following programs: breast cancer prevention, diabetes screening and outreach, ovarian cancer screening, a statewide STOP stroke program and ongoing stroke prevention and education, hepatitis C prevention and management, multiple sclerosis screening, information, education, treatment programs and the Multiple Sclerosis Home Living Navigating Key Services program administered by the Central New England Chapter of the National Multiple Sclerosis Society, renal disease prevention and management, Lyme disease prevention and research, colorectal cancer prevention, prostate cancer screening, education and treatment with a particular focus on African American males, osteoporosis education, a program to combat mental retardation in children suffering from a genetic effect causing phenylketonuria, maintenance of the Amyotrophic Lateral Sclerosis registry created pursuant section 25A of chapter 111 of the General Laws, maintenance of the statewide lupus database, early detection and treatment of lung cancer, education, awareness and early detection of brain aneurysms, and the operation of the Betsy Lehman Center for patient safety; provided further, that the department shall expend not less than the same amount available in each item in fiscal year 2008; provided further, that sites for Hepatitis C services shall be distributed throughout the commonwealth so as to ensure coverage in all geographic regions, including currently underserved areas proximate to Boston, Cape Ann, Fitchburg, Leominster, Lowell, Pittsfield, Springfield and Worcester; and provided further, that not less than \$75,000 shall be expended for the operation of NECPAD, a support organization which provides patient education and support for people diagnosed with PKU or related disorders and their families ..... \$14,709,996
- 4513-1130 For the domestic violence and sexual assault prevention and treatment program; provided, that of the amount appropriated in this item, funds shall be expended for rape prevention and victim services, including the statewide Spanish language hotline for sexual abuse and domestic violence services for immigrants, and refugees and statewide suicide and violence prevention outreach to gay and lesbian youth; provided further, that not less than \$350,000 shall be expended for the



public health model of community engagement and intervention services and crisis housing for sexual violence and intimate partner violence in the GLBT community; provided further, that not less than \$20,000 shall be expended for a Spanish speaking battered women's hotline provided by Delamano, a Lawrence-based domestic violence support organization; provided further, that not less than \$300,000 shall be expended for sexual and domestic violence prevention; provided further, that not less than \$1,050,000 shall be expended for domestic violence batterers' intervention services; provided further, that not less than \$300,000 shall be expended for sexual abuse and domestic violence services for immigrants and refugees; provided further, that not less than \$200,000 shall be expended for Close to Home, a domestic violence prevention program located in Dorchester; and provided further, that not less than \$75,000 shall be expended for the Alternative House . . . . . \$6,391,677

4516-0263 For the department of public health; provided, that said department may expend not more than \$1,442,468 in revenues from various blood lead testing fees collected from insurers and individuals for the purpose of conducting such tests; 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 lesser of this authorization or the most recent revenue estimate therefore, as reported in the state accounting system . . . . . \$1,442,468

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 the 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 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 and the rapid laboratory diagnostic services; and provided further, that of said \$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 ..... \$15,653,231

4516-1022 For the department of public health; provided, that the department may expend not more than \$300,000 generated by fees collected from insurers for tuberculosis tests performed at the state laboratory institute; provided further, that revenues collected may be used to supplement the costs of said laboratory; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser 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 \$400,000 generated by fees collected from the following services provided at the registry of vital records and statistics: amendments of vital records, 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; provided further, that the registrar of vital records and statistics shall exempt from payment of a fee any person requesting a copy of a birth certificate for the purpose of establishing eligibility for Medicaid; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller

	may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate, as reported in the state accounting system	\$400,000
4530-9000	For teenage pregnancy prevention services; provided, that no funds shall be expended in the AA object class; 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 the community service plans; provided further, that funding shall be expended on those communities with the highest teen birth rates according to an annual statistical estimate conducted by the department; provided further, that funds shall be expended on programming directed at children under the care of the department of social services who are at high risk for teenage pregnancy; provided further, that the department shall collaborate with the department of social services on this programming; provided further, that not less than \$400,000 shall be expended for the Northern Berkshire Community Coalition in the Berkshire region; provided further, that of said \$400,000, not more than 10 percent shall be used for administrative services; provided further, that of said \$400,000 not less than \$250,000 shall be expended for the 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 \$50,000 shall be expended for teen pregnancy prevention programs in the town of Southbridge; provided further that \$100,000 shall be expended for teen pregnancy prevention services in the town of Orange; and provided further, that no less than \$15,000 shall be provided to Girls, Inc. of Lynn for teen pregnancy prevention	\$4,055,586
4570-1502	For the purposes of implementing a proactive statewide infection prevention and control program	\$1,000,000
4580-1000	For the operation of the universal immunization program; provided, that no funds shall be expended in the AA object class; 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 ..... \$51,581,508

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; provided further, that services shall include, but not be limited to: (a) strengthening the infrastructure of school health services in the areas of personnel and policy development, programming and interdisciplinary collaboration; (b) developing linkages between school health services programs and community health providers; (c) incorporating health education programs, including tobacco prevention and cessation activities in school curricula and in the provision of school based health services; and (d) incorporating obesity prevention programs, including nutrition and wellness programs, in school curricula to address the nutrition and lifestyle habits needed for healthy development; provided further, that the services shall meet standards and eligibility guidelines established by the department in consultation with the department of education; provided further, that not less than \$300,000 shall be expended for mental health and substance abuse services in school-based health centers; provided further, that not less than \$550,000 shall be expended for the commission on gay and lesbian youth; provided further, that \$150,000 shall be expended for the Childhood Obesity School Nutrition Project within the department to initiate or maintain school lunch programs focused on diminishing the epidemic of childhood obesity; provided further, that food service providers working with public schools wishing to institute or maintain a school nutrition program designed to reduce childhood obesity may submit an application to the department indicating the various nutritional and educational steps the school plans to implement with the grant, not to exceed \$10,000 per school per year; provided further, that eligible programs shall focus on providing healthier choices for lunch programs and provide incentives and information to make healthier meal choices in the school lunch line; provided further, that 1 or more schools may be included in an application; provided further, that grant applications and other appropriate criteria shall be determined and reviewed by the department; provided

further, that not less than \$200,000 shall be expended for the North Quabbin Community Coalition for support and implementation of four model community coalitions and community capacity building activities; provided further, that not less than \$15,000,000 shall be expended for school nurses and school based health centers; and provided further, that not less than \$100,000 shall be expended to the H.E.L.P. program so-called, for black males health; and provided further, that not less than \$75,000 shall be expended for a pilot program to provide community health services through the school-based health center at the Helen A. Bowditch Health Center at Elm Park school in the city of Worcester ..... \$17,457,134

4590-0300 For smoking prevention and cessation programs; provided, that no funds shall be expended in the AA object class ..... \$12,750,000

4590-0912 The department may expend an amount not to exceed \$16,542,017 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 charge-backs and motor vehicle replacement; provided further, that all revenues expended shall be pursuant to schedules submitted to the secretary of administration and finance and the house and senate committees on ways and means; provided further, that notwithstanding any special or general laws to the contrary, the western Massachusetts hospital shall be eligible to receive and retain full payment under the medical assistance program administered by the executive office of health and human services pursuant to chapter 118E of the general laws for all goods and services provided by the hospital in accordance with all federal requirements; 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 timing discrepancies be-

	tween 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 lesser 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 in this item .....	\$16,542,017
4590-0913	For the department of public health which may expend not more than \$500,000 for payments received for those services provided by the Lemuel Shattuck hospital to inmates of county correctional facilities; provided, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate as reported in the state accounting system .....	\$500,000
4590-0915	For the maintenance and operation of Tewksbury hospital, Massachusetts hospital school, Lemuel Shattuck hospital and 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 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 \$241,743 shall be made available for the fifth 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 of correction and of county correctional facilities who are treated at the public health hospitals; provided further, that not less than \$855,000 shall be expended for a new dialysis unit at Tewksbury State Hospital; provided further, that the department shall submit a report to the house and senate committees on ways and means not later than January 31, 2008, on the progress of the expansion and the use of the funds . . . . .	\$144,881,131
4590-0917	For the department of public health; provided, that the department may expend an amount not to exceed \$4,160,000 from payments received from the vendor managing health services for state correctional facilities for inmate medical services provided by the Lemuel Shattuck hospital; provided, that the payments may include capitation payments, fee for service payments, advance payments and other compensation arrangements established by contract between the vendor and the hospital; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . . .	\$4,160,000
4590-1503	For the pediatric palliative care program established in section 24K of chapter 111 of the General Laws . . . . .	\$1,000,000
4590-1506	For a grant program to be administered by the department of public health to support the establishment of a comprehensive youth violence prevention program; provided, that the commissioner of public health shall distribute grant funds through a competitive grant program that gives preference to applications that: (a) serve communities that have been identified by the department as being high risk communities for youth violence; (b) demonstrate multi-disciplinary collaboration, including youth serving community organizations, state agencies, local law enforcement, medical	

and public health professionals, and faith-based organizations; (c) utilize a youth development framework that includes addressing out-of-school time activities, mentoring, leadership training, employment readiness training, conflict resolution, education support, family support services and financial literacy; (d) provide positive programming during, but not limited to, the hours of 2 pm and 10 pm; and (e) demonstrate the ability to work with the department staff to conduct comprehensive evaluations of program development and implementation activities; provided further, that no grants shall be awarded to law enforcement agencies; provided further, that funds shall be considered one-time and grants shall not annualize in fiscal year 2010; 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 grant funds shall be expended on food or beverages; provided further, that the department of public health shall publish guidelines and an application for the grant program not later than July 31, 2008; provided further, that awards shall be made to applicants not later than September 1, 2008; provided further, that the department of public health shall report to the house and senate committees on ways and means and the executive office of administration and finance not later than November 1, 2008, detailing the grant amount awarded to each recipient and a description of each grant; and provided further, that each grant recipient shall provide the department of public health with a comprehensive list of best practices that have been instituted as a result of these grants . . \$3,500,000

**OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES.**

*Department of Social Services.*

4800-0015 For central and area office administration; provided, that the associated expenses of employees whose AA and DD 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 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; provided further, that the department shall expend not less than \$1,000,000 in the AA or CC object codes to hire four to five full-time board certified or board eligible child psychiatrists to serve in each of the area offices; provided further, that hiring and supervision shall be done in conjunction with the department of mental health; provided further, that such physicians shall collaborate with the department's social workers; provided further, that the department shall employ not less than 1 full-time board-certified physician; provided further, that the department and the department of early education and care shall implement standards for early education and care placements made through the supportive child care program; provided further, that the department of social services, in collaboration with the department of early education and care, shall maintain a centralized list detailing the number of children eligible for supportive child care services, the number of supportive slots filled and the number of supportive slots available; provided further, that notwithstanding any general or special law to the contrary, the department shall not reduce recoupment amounts recommended by the state auditor; 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 and the chairs of the joint committee on children and families a report detailing the number of medical and psychiatric personnel currently employed by or under contract with the department; provided further, that the report shall include the number of foster care reviews conducted by the department and the average length of time in which each review is completed; provided further, that the report shall contain the number of the department's contracts reviewed by the state auditor and the number of corrective action plans issued; provided further, that the report shall also include the



number of corrective action plans entered into by the department; provided further, that the report shall include the number of social workers and supervisors who have earned a bachelors' or masters' degree in social work; provided further, that the report shall include the total number of social workers and the total number of social workers holding licensure, by level; provided further, that the comptroller shall act in accordance with item 1000-0001 if the report, with all of its components, is not filed within 10 days of the stated due date; provided further, that the department shall file a report on the first business day of each month to the senate and house committees on ways and means and the joint committee on children and families on the caseload of the department; provided further, that caseloads provided in this report shall include: residential placements, group care, foster care, therapeutic foster care, adoption, guardianship, 51A reports, substantiated 51A reports, the number of children who die in the care and custody of the department, the number of children on the waitlist for supportive child care and the number of medical and psychiatric consultation requests made by the department's social workers; provided further, that the report shall include the number of approved foster care placements; provided further, that the report shall also include the number of children in psychiatric hospitals and community-based acute treatment programs who remain hospitalized beyond their medically-necessary stay while awaiting placement and the number of days each case remains in placement beyond that which is medically-necessary; provided further, that the report shall include the number of children under the department of social services care and custody who are being served in medical or psychiatric care provided through other publicly-funded sources; provided further, that the report shall also contain the number of children served by supervised visitation centers and the number of those children who are reunified with their families; provided further, that the report shall contain information on the total number of children served, their ages, the number of children served in each service plan, the number of children in out-of-home placements and the number of placements each child has had before receiving an out-of-home placement; provided further, that the report shall

also contain the number of families receiving multiple 51A reports within a 10-month period, the number of cases reopened within 6 months of being closed and the number of children who return home and then re-enter an out-of-home placement within 6 months; provided further, that the report shall detail 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 commissioner of the department of social services may transfer funds between items 4800-0021, 4800-0030, 4800-0038, and 4800-0041, 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 not later than December 1, 2008, the department shall submit a report to the house and senate committees on ways and means and the chairs of the joint committee on children and families including but not limited to (a) the criteria for which a child in need of services is removed from the home; (b) the criteria for the delivery of services alternative to removing a child from the home; and (c) the criteria for the involvement of the department of social services when a child remains in the home; and provided further, that not more than 5 per cent of any item shall be transferred in fiscal year 2009 ..... \$77,337,703

4800-0016 For the department of social services which 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 and 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 aging

	out population, parolees, probationers, youth service releases, or other community residents considered to have employment needs .....	\$2,000,000
4800-0021	For the department of social services to enhance delivery of a comprehensive social service program as defined in section 2 of chapter 18B; provided further, that funds from this line item shall be expended in a manner to be determined by the department most likely to protect the physical and psychological safety of minors in the custody or under the care of the department; provided further, that 30 days prior to the distribution of any funds from this line item the department shall submit a report to the secretary of administration and finance and the house and senate committees on ways and means; and provided further, that the report shall include, but not be limited to, findings of the department justifying the method of distribution and details thereof .....	\$5,000,000
4800-0025	For foster care review services .....	\$2,976,282
4800-0030	For local and regional administration and coordination of services provided by lead agencies and regional resource centers; provided, that flex services provided by these agencies shall be funded from this item .....	\$21,020,794
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 .....	\$740,076
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, 2006, shall receive a clothing benefit in fiscal year 2009; provided further, that not less than \$2,300,000 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 less than \$498,850 shall be expended for Latinas y Ninos and Casa Esperanza; provided further, that not less than \$300,000 shall be expended for Massachusetts Families for Kids; provided further, that not less than \$300,000 shall be expended for a statewide contract with Northeastern University for the violence prevention and conflict resolution program; 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 \$257,000 shall be expended for the Laboure Center in South Boston; 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 \$187,500 shall be expended for the Center for Family Connections to provide therapeutic and rehabilitative mental health services, targeted research on well-being outcomes and permanency planning for older, hard-to-place youth and those aging out of the system; provided further, that not less than \$187,000 shall be expended for the Bristol County Child Advocacy Center's operating expenses located in the city of Fall River; provided further, that not less than \$163,642 be expended for the International Institute of the Merrimack Valley; 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 \$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 \$140,000 shall be expended for the MSPCC Franklin County Supervised Visitation Program; provided further, that

not less than \$140,000 shall be expended for the Comprehensive School Age Parenting Program, Inc. for maintaining and expanding its year-round school based programs in Boston high schools, middle schools, pilot schools and small schools education complexes for pregnant teens, young mothers and fathers and other youth at high risk of school drop out; 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 \$125,000 shall be expended for North End Outreach Network of Springfield; provided further, that not less than \$125,000 shall be expended for the South End Community Center of Springfield, Inc.; 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 \$100,000 shall be expended for the Dunbar Community Center in the city of Springfield; provided further, that not less than \$100,000 shall be expended for Families United For Teens Health; provided further, that not less than \$100,000 shall be expended for the Conway Children's Advocacy Center of Plymouth County; 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 the purpose of providing case management services for the Amity Transitional Housing program in the city of Lynn; provided further, that not less than \$50,000 shall be provided for youth services at the Uxbridge Youth Center; provided further, that not less than \$50,000 shall be expended for Family Service, Inc. of Lawrence; provided further that not less than \$50,000 shall be expended for youth violence prevention programs administered by Youth Central Services; 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 \$35,000 shall be expended for the Barnstable county council for children, youth and families; provided further, that not less than \$25,000 shall be expended for the Concilio Hispano in Somerville; provided further, that not less than \$25,000 shall be expended for Centro Presente of Cambridge; provided further, that not less than \$20,000 shall be expended for the

	Massachusetts Association of Portuguese Speakers of Cambridge; 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 Baby Safe Haven program; 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; and provided further, that not less than \$7,500 shall be expended for House of Peace & Education, Inc in Gardner for the Hope for Kids program .....	\$313,792,694
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; and 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 .....	\$229,554,705
4800-0091	For the department of social services which may expend not more than \$3,000,000 in federal reimbursements received under Title IV-E of the Social Security Act during fiscal year 2009 for the purposes of developing a training institute for professional development 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 lesser 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; and provided further, that no funds shall be expended from this item for lease-purchases or the Family Networks system .....	\$3,000,000
4800-0151	For a program to provide alternative overnight non-secure 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, as amended; provided, that the programs which provide the alternative non-secure 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 . . . . .	\$319,171
4800-1100	For the AA and DD 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 only employees of bargaining unit 8 as identified in the Massachusetts personnel administrative reporting and information system shall be paid from this item . . . . .	\$157,262,697
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, 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 domestic violence prevention specialists shall be funded from this item; provided further, that not less than \$1,037,000 shall be expended for the YWCA battered women's shelter in the city of Springfield; provided further that not less than \$150,000 shall be expended for a domestic violence prevention program	

called ‘Teens-At-Risk’, operated by Portal To Hope for the communities of Everett, Lynn, Malden, Medford and Winthrop without the need of approval by the commissioner of the department public health; provided further, that not less than \$90,000 shall be expended for the Western Mass Women’s Initiative Survivor’s Project; provided further, that not less than \$75,000 shall be expended for a contract with House of Hope in the city of Lowell; provided further, that not less than \$60,000 shall be expended for the planned learning achievement program in Amherst, in collaboration with the department of elementary and secondary education, through an interagency service agreement; provided further, that not less than \$15,000 shall be expended for the Words not Weapons mentoring project in the town of Saugus; provided further, that not less than \$10,000 shall be expended for the Southern Hilltown Domestic Violence Coalition; provided further, that not less than \$10,000 shall be expended for the Wakefield Alliance Against Violence; and provided further, that not less than \$10,000 shall be expended for the Melrose Alliance Against Violence . . . . . \$23,473,406

**OFFICE OF HEALTH SERVICES.**  
*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, due to severe emotional disturbance, is more appropriate for group care . . . . . \$38,359,864
- 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 not

less than \$2,750,000 shall be expended for the Child Psychiatry Access Project; provided further, that of the \$2,750,000, not less than \$250,000 shall be expended for the expansion of the Child Psychiatry Access Project to begin implementation of service to public schools in each region using the model piloted during fiscal year 2008 as a performance initiative; and provided further, that not less than \$1,800,000 shall be expended from this item in fiscal year 2009 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 those services . . . . . \$76,201,535

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 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 2009 not later than February 2, 2009; provided further, that not less than \$3,314,796 shall be expended on the expansion of housing for the homeless mentally ill; provided further, that not less than \$1,900,000 shall be expended on mental health research; provided further, that not less than \$300,000 shall be expended for a pre-arrest jail diversion grant program at the department of mental health for 5 programs; provided further, that \$200,000 shall be expended for jail diversion programs; provided further, that of said \$200,000, not less than \$100,000 shall be expended for the jail diversion program in Framingham; provided further, that not less than \$125,000 shall be expended on expansion of employment support services at the Fairwinds Clubhouse in Falmouth; provided further, that not less than \$50,000 shall be expended to continue and expand the triage counseling services in the Needham public schools; provided further, that not less than \$50,000 shall be expended for culturally and linguistically



	appropriate mental health services for immigrants at the International Institute of Boston; and provided further, that \$20,000 shall be expended for the Samaritans on Cape Cod and the Islands .....	\$322,068,305
5046-2000	For homelessness services; provided, that not less than \$50,000 shall be expended for homelessness services at the Salem Mission .....	\$22,452,466
5046-4000	For the department of mental health; provided, that the department 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; and provided further, that all fees collected under that program 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; provided further, that the department shall require a performance specification to be developed for safe aftercare options for adults upon release from acute inpatient mental health care services; 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 .....	\$36,228,259
5055-0000	For forensic services provided by the department; provided, that not less than \$1,186,000 shall be expended to sustain and expand services provided through juvenile court clinics .....	\$8,105,485
5095-0015	For the operation of adult inpatient facilities and community-based mental health services; 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: a) the client is deemed clinically suited for a more integrated setting; b) community	

residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and c) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in inpatient care; provided further, that any client transferred to another inpatient facility as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed facility; provided further, that the department may allocate funds in an amount not to exceed \$5,000,000 from this item to item 5046-0000, as necessary, under allocation plans submitted to the house and senate committees on ways and means 30 days before any transfer, for residential and day services for clients formerly receiving inpatient care at the centers and facilities; and provided further, that the department of mental health shall notify the joint committee on mental health and substance abuse and the house and senate committees on ways and means 60 days prior to the closure of any inpatient state hospital beds ..... \$181,899,591

*Department of Mental Retardation.*

5911-1003 For the administration and operations 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 2009 the comptroller shall transfer from the department of mental retardation trust fund established under section 2RRR of chapter 29 of the General Laws an amount sufficient to reflect the costs of the assessment on public facilities collected under section 27 of chapter 118G of the General Laws and an amount sufficient to fund rate increases for services provided to MassHealth members by nonpublic 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; 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 . . . . .	\$73,863,906
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 . . . . .	\$14,137,324
5920-2000	For vendor-operated, community-based, residential adult services, including intensive individual supports; provided, that \$13,145,837 shall be expended in annualized funding for turning 22 clients who began receiving the services in fiscal year 2008 pursuant to item 5920-5000 of section 2 of chapter 61 of the acts of 2007; 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 the commissioner shall file with the house and senate committees on ways and means 15 days before any such transfer; provided further, that not more than \$5,000,000 shall be transferred from this item in fiscal year 2009; provided further, that not less than \$500,000 shall be expended for Best Buddies Massachusetts; provided further, that not less than \$100,000 shall be expended for the Massachusetts Special Olympics; provided further, that not less than \$100,000 shall be expended for services to the developmentally disabled provided by Grow Associates, Inc.; and provided further, that \$50,000 shall be expended for Mass Citizens Advocacy . . . . .	\$569,561,352
5920-2006	For the implementation of a residential rate initiative; provided, that the department shall submit a report to the house and senate committees on ways and means not later than January 19, 2009, detailing the use of such funds to establish a rate system for vendor-operated residential services . . . . .	\$2,250,000
5920-2010	For state-operated, community-based, residential services for adults, including community-based health services; 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 .....	\$137,437,683
5920-2020	For compliance with the terms of the settlement agreement, dated December 19, 2000, and entered into by the parties in Boulet v. Cellucci, Civil Action No. 99-CV-10617-DPW, filed in the United States District Court of Massachusetts in order to provide services to the clients of the department on the waiting list on July 14, 2000 .....	\$87,971,902
5920-2025	For community-based day and work programs for adults and for \$4,518,823 in annualized funding for turning 22 clients who began receiving services in fiscal year 2008 pursuant to item 5920-5000 of section 2 of chapter 61 of the acts of 2007; provided, that not less than \$200,000 shall be expended on a contract with Work, Inc. for enhanced or expanded services and employment opportunities for citizens with disabilities; and provided further, that not less \$100,000 shall be expended Life Focus Center in the Charlestown neighborhood of the city of Boston .....	\$129,159,457
5920-3000	For respite services and intensive family supports; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services; provided further, that not more than \$50,000 shall be expended for the Friendship Home project in Norwell; and 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 .....	\$56,094,228
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 \$4,000,000 shall be expended for the purposes of providing services under the children's autism Medicaid waiver application submitted pursuant to chapter 107 of the acts of 2005 to be contingent upon the maximization of federal reimbursement for waiver services funded by the commonwealth; provided further, that at a minimum, this waiver shall include children with autism spectrum disorder ages 0 to 8, inclusive, including children with autism spectrum disorder ages 0 to 3, inclusive, receiving services through the department of public health's early intervention program; provided further, that the income	

eligibility for the waiver shall not be any lower than MassHealth standard income eligibility for children; provided further, that the department shall take all steps necessary to ensure that eligible children with autism immediately begin to receive services pursuant to such waiver; provided further, that the department shall immediately file any waiver amendments necessary to comply with the requirements of this item with the Centers for Medicare and Medicaid services; provided further, that the department shall report to the house and senate committees on ways and means, the joint committee on education and the joint committee on children, families and persons with disabilities on the number of contracted support services provided for families with autistic children under this item and the costs associated with such services, not later than January 2, 2009, including but not limited to, a report on the implementation of the children's autism Medicaid waiver program pursuant to chapter 107 of the acts of 2005, with information regarding the number of children enrolled in the waiver and receiving services, linguistic and cultural diversity, age, gender, and geographic representation of the applicants and the children enrolled in the program, department plans to continue to assess the demand for waiver services, any executive office of health and human services plans to expand the waiver for children on the autism spectrum of all ages in the future, and any other information determined relevant by the department; provided further, that the department shall submit copies of any amended waiver to the house and senate committees on ways and means, the joint committee on education and the joint committee on children, families and persons with disabilities upon submission of the amendment; provided further, that not less than \$200,000 shall be expended for the purposes of a contract with Melmark New England, Inc. 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; provided further, that not less than \$200,000 shall be expended for the purposes of a contract with the New England Center for Children, Inc. to provide training and support to public school districts and families for

	the establishment of in district partner classrooms to serve children with autism spectrum disorders; provided further, that \$100,000 be allocated to the Asperger's Association of New England to provide support services to individuals with high functioning autism or Asperger's syndrome; provided further, that not less than \$75,000 shall be expended for Youth Enhanced Services Non-profit; and provided further, that not less than \$30,000 shall be allocated to Whole Children, Inc. of Hadley .....	\$6,264,413
5920-5000	For services to clients of the department who turn 22 years of age during state fiscal year 2009; provided, that the amount appropriated under this item shall not annualize to more than \$17,664,660 in fiscal year 2010; and provided further, that the department shall report to the house and senate committees on ways and means not later than January 2, 2009 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 .....	\$7,700,000
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, in this item called ICF/MRs, managed by the department and shall endeavor, within available resources, to discharge clients residing in the ICF/MRs to residential services in the community if the following criteria are met: a) the client is deemed clinically suited for a more integrated setting; b) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and c) 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 children, families and persons with disabilities	



and the house and senate committees on ways and means on the progress of this initiative by December 1, 2008, including both past actions and proposed future actions; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, under allocation plans submitted to the house and senate committees on ways and means 30 days before any 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 ..... \$188,297,359

5982-1000 For the department of mental retardation; provided, that the department may expend not more than \$150,000 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 ..... \$150,000

**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 loca-

tion 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 transportation, in collaboration with the commissioner of highways, shall file an annual report with the joint committee on transportation and the house and senate committees on ways and means not later than June 30; 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 . . . . . \$4,540,987

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 such program shall include maintenance and expansion on routes serviced through the inter-district transportation program in fiscal year 2008; provided further, in fiscal year 2009, the level of service shall remain the same as fiscal year 2008; 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 2009; provided further, that before the execution of the extensions and at the end of fiscal year 2009, 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 not later than December 15, 2008	\$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, 2008 and ending June 30, 2009, may enter into contracts with the authorities; provided further, that notwithstanding section 152A of chapter 161 of the General Laws, and section 23 of chapter 161B of the General Laws, the amount shall be at least 50 per cent but not more than 75 per cent of the net cost of service of each authority incurred in fiscal year 2009, 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 2009 shall not exceed 102.5 per cent of its operating expenditures for fiscal year 2008; 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 16 regional transit authorities; provided further, that the new services shall 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 shall 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, 2009, each of the 16 regional transit authorities shall submit to the house and senate committees on ways and means a report detailing all revenues collected as a result of services provided under 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 revenue 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 not later than April 1, 2009; 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 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

including, 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 18 months after the effective date of this act; and provided further, that the Massachusetts Association of Regional Transit Authorities shall, on or before November 15, 2008, 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 2009 and focus the report on the reforms and improvements . . . . . \$57,888,391

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 . . . . . \$602,663

*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 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 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 to the secretary of transportation for approval requests to repair such vehicles costing in excess of the limit set forth in said section 7; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B and 5C and for costs associated with police services and overtime within such 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 such areas; and provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials and vehicle repairs ..... \$16,906,691

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; provided further, that not later than June 30, 2012, the department shall develop a plan that phases into the budgetary appropriation all personnel costs transferred to capital authorizations since June 30, 2002; provided further, the department shall complete an overview of the employment levels paid by capital authorizations since June 30, 2002, and the anticipated

	number of employees scheduled to be transferred to budgetary appropriations each fiscal year through June 30, 2012; and provided further, such plan shall be submitted to the house and senate committees on ways and means and the clerks of the house and senate not later than December 31, 2008 . . . . .	\$21,069,425
6010-0003	For the department of highways; provided, that the department may expend revenues collected up to \$1,000,000 from revenue generated from promotional programs; provided, that funds collected shall 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 such program and highway maintenance costs; provided further, that the report shall be filed with the house and senate committees on ways and means not later than 30 days prior to any encumbrance of the funds; and provided further, that the program and any expenditures made under the program shall comply with all statutes, rules and regulations governing billboards, signs and other outdoor advertising devices . . . . .	\$1,000,000
	Highway Fund . . . . .	100.0%
6030-7201	For the costs of hired and leased equipment, vehicle repair, fuel costs and sand, salt and other control chemicals used for snow and ice control . . . . .	\$20,000,000

*Board of Library Commissioners.*

7000-9101	For the operation of the board of library commissioners . . . . .	\$1,048,560
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 considers 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 \$1.15 per resident in the commonwealth; and provided further, that notwithstanding any general	

	or special law to the contrary, in calculating the fiscal year 2009 distribution of funds appropriated in this item, the board of library commissioners shall employ population figures used to calculate the fiscal year 2008 distribution . . . . .	\$17,166,071
7000-9402	For the talking book library at the Worcester public library . . . . .	\$440,000
7000-9406	For the Braille and talking book library at Watertown, including the operation of the machine lending agency; provided, that not less than \$100,000 shall be expended for the National Federation of the Blind Newslines Program . . . . .	\$2,341,359
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 3 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 2009 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 of the library incentive grant program and under the guidelines for the nonresident circulation offset program; and provided further, that any payment made under this item shall be deposited with the treasurer of the city or town and held in a separate account and shall be expended by the public library of that city or town without appropriation, notwithstanding any general or special law to the contrary . . .	\$9,989,844
7000-9506	For the technology and automated resource sharing networks . . . .	\$3,101,000
7000-9507	For the purposes of implementing a public library matching incentive grant program; provided, that a \$.50 state match shall be made for each \$1 that local trustees, public library foundations, friends of the library or other support organizations raise; provided further, that eligible state matching funds shall be made available to municipalities that raise at least \$2,000 and only up to \$100,000 raised; and provided further, that funds from this item shall be made	



available to the local public library trustees for the enhancement of library services and shall not be used as part of the local match for an approved public library project as defined in section 19H of chapter 78 of the General Laws or to meet the appropriation requirement as provided in section 19A of said chapter 78 ..... \$250,000

**EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT.**  
*Office of the Secretary.*

- 7002-0010 For the operation of the office of the secretary of housing and economic development and the Massachusetts business-to-business program; 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; and provided further, that a report shall be submitted to the house and senate committees on ways and means not later than February 2, 2009, which shall include, but not be limited to, the following: (1) the number of businesses that have used the Massachusetts business-to-business program in fiscal year 2009, including both businesses located in the commonwealth and those that were attracted to Massachusetts by the program; (2) the number of jobs the commonwealth has retained as a result of the funding of this program; and (3) the amount of private investment that has occurred as a result of the funding of this program ..... \$585,914
- 7002-0013 For the operation of expedited permitting at the executive office of housing and economic development, related technical assistance grants to local municipalities and related payments to the Massachusetts Development Finance Agency ..... \$4,000,000
- 7002-0045 For the operation of the office of the wireless and broadband affairs director ..... \$250,000

**EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT.**

- 7002-0100 For the operation of the executive office of labor and workforce development, including the divisions under the control of the department; provided, that not later than January 5, 2009, the director 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, systems for delivery of such services, the costs of such services and the sources of revenue for such services . . . . . \$1,412,069

*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 . . . . . \$2,390,193

7002-0201 For the division of occupational safety; provided, that the division may expend an amount not to exceed \$252,850 received from fees authorized under section 3A of chapter 23 of the General Laws and civil fines issued under sections 197B of chapter 111 of the General Laws, section 46R of chapter 140 of the General Laws and section 6F1/2 of chapter 149 of the General Laws . . . . . \$252,850

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 2, 2009 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 Berkshire county 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 expenses to continue expansion of the conversion of the agency's computer system from unify to oracle . . . . . \$21,196,452

7002-0900 For the operation of the division of labor relations . . . . . \$2,328,909

*Department of Workforce Development.*

7002-0012 For a youth-at-risk program targeted at reducing juvenile delinquency in high risk areas of the commonwealth; provided, that these funds may be expended for the development and implementation of a year-round employment program for at-risk youth as well as existing year-round employment programs; provided further, that \$500,000 of these funds shall be matched by private organizations; provided further, that funds shall be available for expenditure through September 1, 2009; and provided further that not less than \$100,000 shall be expended for an at-risk juvenile program at the Boys and Girls Club of The Lower Merrimack Valley in Salisbury . . . . \$8,100,000

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 an apprentice identification card shall contain the photograph of the apprentice, the apprentice registration number or another number that 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 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 an apprentice performing work on a project 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 not enrolled in related classroom instruction classes shall be paid at the journey level rate for the duration of the public works project; and provided further, that for every week in which an apprentice is employed by a contractor, subcontractor or public body subject to this item, a photocopy of the apprentice's apprentice



	identification card shall be attached to the records submitted under this item .....	\$445,181
7003-0604	For the career ladder grant program in long-term care established under 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 3 years; provided further, that notwithstanding section 410 of chapter 159 of the acts of 2000, grants may be awarded on a competitive basis to long-term care labor management workforce partnerships, nursing homes, home care organizations or consortiums of nursing homes and/or home care organizations; provided further, that the Commonwealth Corporation shall submit quarterly reports to the house and senate committees on ways and means on such 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; 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 and for programs designed to assist small and mid-sized manufacturing companies; provided, that not less than \$75,000 shall be expended for the Regional Employment Board of Hampden County for a pilot program for precision machining training; and provided further, that not less than \$200,000 shall be made available from this item	

	to operate the machine operator skills training program using a mobile training unit .....	\$1,375,000
7003-0701	For grants and technical assistance administered by the department of workforce development, under 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 in this item detailing the firms receiving grants, by number of employees, revenues, and industry, to the house and senate ways and means committee by January 15, 2009; 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; 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 \$250,000 shall be expended for the Massachusetts Career Development Institute in Springfield to provide job training, employability development and career counseling to the unemployed and underemployed; provided further, that not less than \$7,500 shall be expended for the Bonnie Brae Day Camp in Gardner; provided further, that not less than \$75,000 shall be expended for the Greater Gardner Community Development Corporation; provided further, that not less than \$15,000 shall be expended for the Draper Complex Reuse Committee in Hopedale; provided further, that not less than \$100,000 be expended for the Lower Pioneer Valley Education Collaborative for the purpose of expanding their existing programs and services to better serve students with disabilities; provided further, that not less than \$150,000 shall be expended for the International Institute to provide long-term case management and employment training for highly skilled legal immigrants; provided further, that not less than	

\$100,000 shall be provided to the Workforce Investment Association of MA, Inc. for the purpose of providing technical assistance to career center directors, administrators, and fiscal agents to assist with quality improvements in the delivery of workforce development services to job seekers and employers; provided further, that not less than \$150,000 shall be provided for Centros Las Americas, in the city of Worcester; provided further, that not less than \$250,000 shall be expended for the Center for Women & Enterprise; provided further, that not less than \$165,000 shall be expended to continue the economic development project operated by the Arlington Community Trabajando in the city of Lawrence; provided further, that not less than \$84,000 shall be expended for Community Service Agency, Inc; provided further, that not less than \$500,000 shall be expended for education, career development and employment service programs operated by the Urban League of Massachusetts; provided further, that not less than \$250,000 shall be expended for Outer Cape Health Services to provide a health center skilled training program on Lower and Outer Cape Cod; provided further, that not less than \$15,000 shall be expended by WE CAN of Cape Cod for workforce training and career mentoring for women in transition; provided further, that not less than \$141,000 shall be expended for Just-a-Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed, underemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$250,000 shall be expended to the New England Farm Workers Council; provided further, that not less than \$200,000 shall be expended for the Boston Health Care and Research Training Institute; provided further, that \$50,000 shall be expended for the Allston-Brighton Vocational Center (VAC) for the continued operation of a job training and placement center; provided further, that not less than \$25,000 be expended for the Area Planning Action Council (APAC) in Allston-Brighton to implement a Project Place Program to



assist in the operation of a career development department; provided further, that not less than \$75,000 shall be expended for the Partnership for Automotive Career Education program to recruit, train, and provide career guidance to students for entry-level automotive technician jobs; provided further, that not less than \$100,000 shall be expended for both the Reunion Center in the city of Easthampton and the Easthampton Youth Entrepreneurship Project; provided further, that not less than \$350,000 shall be expended to fund need-based workforce development related to continuing education grants administered by the Access Program of Boston; provided further, that not less than \$250,000 shall be expended for the 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 \$100,000 shall be expended to Inquilinos Boricuas en Accion (IBA) for the Pathways to Technology Initiative; provided further, that not less than \$105,000 shall be expended for the operation of the E-Team Machinist Program of the North Shore; 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 \$150,000 shall be provided to Lazarus House for the continued operation of a job training program; provided further, that not less than \$150,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in the city of Worcester; provided further, that not less than \$750,000 shall be expended for a high school science program in biotechnology by Commonwealth Corporation, in consultation with the Massachusetts Biotechnology Council, including teacher and guidance counselor training, biotechnology lab equipment, and biotechnology lab supplies evaluation and technical assistance; provided further, that not less than \$500,000 shall be expended on the Commonwealth Corporation; 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 \$50,000 shall be expended for a human service academy pilot program to be operated by People Inc. of Fall River; provided

further, that not less than \$100,000 shall be expended to maintain a post-secondary nursing degree and certification program at the Blackstone Valley Vocational Regional School in partnership with Quinsigamond Community College; 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, and said grant shall require a 200 percent match from the private sector; 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 \$75,000 shall be expended for the Massachusetts School of Professional Psychology to recruit and provide career support and workforce retention of graduate students training for careers in public sector behavioral health service delivery; provided further, that not less than \$900,000 shall be expended on the Massachusetts Service Alliance for the operation of the youth, senior service and conservation corps program; provided further, that not less than \$215,000 shall be expended for rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$150,000 shall be expended for worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$150,000 shall be expended for the Latino After-School Initiative (LASI) Youth Development Project; provided further, that not less than \$400,000 shall be expended to provide employment, training and job placement by Year Up, Inc. of Boston; provided further, that not less than \$200,000 be expended for the 1199SEIU Training and Upgrading Fund; provided further, that not less than \$200,000 shall be expended for Women's Career Mentoring Program and the Women's Union Woman to Woman Program; provided further, that not less than \$250,000 shall be expended for a grant to the south shore tri-town development corporation established pursuant to chapter 301 of the acts of

1998; provided further, that not less than \$250,000 shall be expended for the North Shore Alliance for Economic Development; provided further that no less than \$250,000 shall be expended for the operation and programs of AWAKE (Alive with Awareness, Knowledge, and Empowerment) in Springfield; provided further that \$200,000 be expended on the Western Massachusetts Enterprise Fund; provided further, that not less than \$75,000 be expended for the Lower Pioneer Valley Education Collaborative for the purpose of implementing an educational program enabling on-site technical training; provided further, that not less than \$100,000 shall be provided for the Work Certified Program operated by the Greater New Bedford Workforce Investment Board, Inc; provided further that not less than \$10,000 shall be provided for the William J. Bresnahan Scouting and Community Center in Ashburnham; provided further, that not less than \$50,000 shall be expended to provide employment, training and job placement by the New Skills Academy in the City of Lawrence; 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 \$100,000 shall be expended for the Paul Sullivan Foundation at Middlesex Community College; provided further, that not less than \$50,000 shall be expended for the purpose of providing training for members of the Massachusetts Superior Clerks Association as well as employees of the Superior Court Clerks' offices; provided further, that not less than \$75,000 shall be expended for Middlesex Community College to develop, plan and conduct a pilot program in preparation for establishing a new program in Entrepreneurship Education; provided further, that not less than \$100,000 shall be expended for the Massachusetts Latino Chamber of Commerce in the city of Springfield; provided further, that not less than \$50,000 shall be made available to More Than Words in the city of Waltham for the purpose of job training operations; provided further, that not less than \$9,000 shall be expended for Quincy Asian Resources, Inc., to provide outreach and services to the Asian American community; provided further, that not less than \$300,000 shall be



	expended for Radius Specialty Hospital Boston for the purposes of developing and implementing an information technology skill upgrading program for its employees; and provided further, that not less \$250,000 shall be expended for a hospital-based skilled training program at a teaching hospital in Hampden county .....	\$11,038,500
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 metro north service delivery areas and any satellite offices of said centers which opened on or before December 1, 1997 .....	\$5,500,000
7003-1641	For a grant for the Small Business Association of New England for the layoff aversion through management assistance program for consultant and technical assistance to manufacturing companies in Massachusetts to prevent business closure and employee displacement; provided, that the expenditure of the layoff aversion through management program as provided for in this item shall leverage at least \$1 in matching funds for every \$1 granted pursuant to this item; provided further, that the president of the Small Business Association of New England shall file a quarterly report with the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, and the joint committee on labor and workforce development on the number of employees and manufacturing-based companies that have received financial assistance through this item, a detailed description of the services provided to manufacturing companies in the commonwealth through the layoff aversion through management program, and a detailed account of the expenditures of the layoff aversion program, including administrative costs .....	\$200,000

*Department of Housing and Community Development.*

7004-0001	For the commission on Indian affairs; provided, that not less than \$100,000 shall be expended for a Native American Institute to be developed in conjunction with the commission on Indian affairs and tribal leaders in the commonwealth .....	\$206,894
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 under 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 these 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 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, 7004-9024, 7004-9030, 7004-9033, 7004-9316, and items 7004-9009, 7004-9014, 7004-9019, 7004-9020 of section 2D; provided further, that as a condition of eligibility or continued occupancy by an applicant or a tenant, the department may require disclosure of the social security number of an applicant or tenant and members of the applicant's or tenant's household for use in verification of income eligibility; provided further, that the 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 the department may also consult with the department of revenue, the department of transitional assistance or any other state or federal agency which it considers necessary to conduct this income verification; provided further, that notwithstanding any general or special law to the contrary, these state agencies shall consult and cooperate with the department and furnish any information in the possession of the agencies including, but not limited to, tax returns and applications for public assistance or financial aid; provided further, that for the purposes of conducting this income verification, the director of the 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 federally assisted housing programs and that

of members of the participants' households; and provided further, that for the purposes of clarification only, notwithstanding section 12 of chapter 490 of the acts of 1980, the department may authorize neighborhood housing services corporations to retain, re-assign, and reloan funds received in repayment of loans made under the neighborhood housing services rehabilitation program; provided further, that not less than \$25,000 shall be expended for the Beverly Affordable Housing Coalition; provided further, that not less than \$15,000 shall be expended for the Turning Point Day Resource Center for the Homeless in the town of Wareham; provided further, that \$63,440 shall be expended for the Worcester Housing Authority for a resident services employment coordinator; provided further, that \$50,000 shall be expended for the Quinsigamond Village Community Center for the creation of a part-time outreach worker and for administrative costs; provided further, that not less than \$50,000 be expended for the North Shore Housing Trust, Inc.; provided further, that not less than \$100,000 shall be expended for the Pleasant Street Neighborhood Network Center in Worcester; provided that not less than \$50,000 shall be expended for the Worcester YouthCenter, located in the city of Worcester; provided further, that not less than \$50,000 shall be expended for the South Worcester Neighborhood Improvement Corporation to continue to provide vital services to the poorest neighborhoods in the city of Worcester; provided further, that not less than \$25,000 shall be expended for AMEDAL in Lawrence; provided further, that not less than \$115,000 shall be expended for Food for the World Pantry; provided further, that not less than \$100,000 shall be expended for Neighbors in Need of the Merrimack Valley; provided further, that not less than \$25,000 shall be expended for upkeep and maintenance of the Rockland Community Center; provided further, that not less than \$150,000 shall be expended to World is Our Classroom, Inc. serving the towns of Holyoke, Westfield, Chicopee and Greenfield; provided further, that not less than \$35,000 shall be expended to the Holyoke Creative Arts Center; provided further, that not less than \$25,000 shall be expended for the Allston-Brighton Community Development Corporation's continued operation of a grant program to enhance housing



quality standards; provided further, that not less than \$75,000 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 \$150,000 shall be expended for ABCD North End/West End elderly program; provided further, that not less than \$75,000 shall be expended for the Methuen-Arlington Neighborhood, Inc; provided further, that no less than \$150,000 shall be expended for 2 computer centers and the work force program operated by the Cambridge housing authority; provided further, that not less than \$50,000 shall be expended for the Clinton Housing Authority for the Water Street Senior Housing Complex, located in the town of Clinton; provided further, that not less than \$100,000 shall be expended for the Indian Orchard Main Street Partnership; provided further, not less than \$100,000 shall be expended for a Homeless Prevention Program for the Homeless Connections Outreach Program in Fall River; provided further, that not less than \$100,000 shall be expended for preliminary economic development designs for downtown Needham; provided further, that not less than \$200,000 shall be expended to the Springfield Neighborhood Housing Services, Inc., so called, in Springfield to develop new housing starts, prevent foreclosures, assist first-time home buyers, and to create jobs in the construction industry; provided further, that not less than \$95,000 shall be expended to the Boston Housing Authority for a program to provide certain tenant services for the West Broadway Task Force in the South Boston section of the city of Boston; provided further, that not less than \$25,000 shall be expended for the Marlborough Community Development Corporation; provided further, that not less than \$25,000 shall be allocated for operational support for the affordable housing program located at 9 Half Moon Street, in the Dorchester section of the city of Boston; provided further, that not less than \$100,000 shall be expended for the Safe Neighborhood Initiative Pilot Program in the Grove Hall area of Roxbury and Dorchester in the city of Boston; provided further, that not less than \$150,000 shall be expended to the town of Braintree as a onetime community action grant for the

replacement of the communications console at the police department in the town of Braintree; provided further, that not less than \$20,000 shall be expended to the Town of Braintree as a one-time community action grant for Thayer Public Library; provided further, that not less than \$25,000 shall be expended for operational support for the affordable housing program for formerly homeless individuals at Egleston Crossing in the Dorchester section of the city of Boston; provided further, that not less than \$100,000 shall be expended to the Housing Families, Inc in the city of Malden for providing educational support programming for homeless children through the Children and Family Program; provided further, that not less than \$300,000 shall be expended for the paving and construction of parking facilities in the town of Holbrook; provided further, that not less than \$300,000 shall be expended for a senior center in the city of Quincy; provided further, that not less than \$500,000 shall be expended for the Jackson-Appleton-Middlesex plan in the city of Lowell; 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 \$75,000 shall be expended for the Greater Gardner Community Development Corporation; provided further, that not less than \$50,000 shall be expended for Kamp for Kids in Westfield; provided further, that not less than \$100,000 shall be expended for Homeowner Options for Massachusetts Elders; provided further, that not less than \$50,000 shall be expended for the Center for Sustainability to assist in its mission; provided further, that not less than \$50,000 shall be expended for a technology program at the Watertown Housing Authority; provided further, that not less than \$75,000 shall be expended for the Lowell Wish Project; and provided further, that not less than \$100,000 shall be expended for a contract with the St. Frances Samaritan House in the city of Taunton . . . . . \$12,244,245

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 . . . . . \$5,750,000

7004-3036 For housing services and counseling; provided, that not less than \$1,850,000 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 the department shall submit annual reports to the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on housing detailing all expenditures of said program including for each regional housing consumer education center the total number of persons who received information and referral services, the costs for such services rendered per consumer and the identification of consumer issues and trends; provided further, that said department shall report to the house and senate committees on ways and means no later than March 2, 2009 on possible savings and efficiencies through consolidation of said services and counseling; 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 \$141,000 shall be expended for the Just A Start Corporation to administer a housing stabilization and conflict management services program to prevent homelessness; provided further, that not less than \$100,000 shall be expended for the New North Citizens' Council, Inc. North End Housing Initiative; and provided further, that not less than \$80,925 shall be expended for the Central Massachusetts Housing Alliance Inc.

	Donations Clearinghouse Program .....	\$2,171,925
7004-3045	For a tenancy preservation program for neutral party consultation services in eviction cases before the housing court department of the Massachusetts trial court for individuals with disabilities and for families that contain individuals with disabilities in cases where the disability is directly related to the reason for eviction .....	\$500,000
7004-4314	For the expenses of a service coordinators program established by the department to assist tenants residing in housing developed pursuant to sections 39 and 40 of chapter 121B of the General Laws to meet tenancy requirements in order to maintain and enhance the quality of life in 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 under 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 on the effective date of this act, and thereafter, to those persons 60 years of age or older as of June 30, 2008, receiving rental assistance from the Massachusetts rental voucher program; provided further, that the 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 for the compensation of state employees; provided further, that the amount appropriated in this item shall be considered to meet any and all obligations under said sections 32 and 40 of said chapter 121B; provided further, that any new reduced rental units developed in fiscal year 2009 eligible for subsidies under 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 . . . . \$66,500,000

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 month's rent during any 1-year lease period shall be terminated from the program; provided further, that notwithstanding any general or special law to the contrary, a mobile voucher whose use is or has been discontinued shall be re-assigned within 90 days; provided further, that the department shall pay agencies \$32.50 per voucher per month for the costs of administering the program; 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 shall cause it to exceed the appropriation set forth in this item; 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 shall not be limited to, job training, counseling, household budgeting and education, as defined in regulations promulgated by the department and to the extent these programs are available; provided further, that each participant shall be required to undertake and meet these contractually established obligations as a condition for continued eligibility in the program; provided further, that for continued eligibility, each participant shall execute this 12-month contract on or before September 1, 2008, if the participant's annual eligibility recertification date occurs between June 30, 2008, and September 1, 2008, 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 disabled may be exempted from any obligations unsuitable under particular circumstances; 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, 2008 . . . . . \$33,047,202

7004-9030 For the transitional rental assistance program established under 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 this program an allowance not to exceed \$25 per voucher per month for the costs of administration; provided further, that notwithstanding any general or special law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, 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 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 in this item; 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 under 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 consistent with chapter 179 of the acts of 1995 the amount appropriated in this item

	shall not annualize to more than \$4,000,000 in fiscal year 2010; and provided further, that the program shall provide funding for not more than 800 mobile vouchers . . . . .	\$4,000,000
7004-9033	For rental subsidies to eligible clients of the department of mental health; provided, that the department shall establish the amounts of such subsidies so that payment thereof and of any other commitments from this item shall not exceed the amount appropriated herein . . . . .	\$4,000,000
7004-9201	For interest subsidies for the private development of affordable housing; provided, that notwithstanding any general or special law to the contrary, no new commitments shall be entered into during fiscal year 2009 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 . . . . .	\$4,500,000
7004-9315	For the low-income housing tax credit program; provided, that the department may expend not more than \$2,334,014 from revenue collected from fees collected under 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 as reported in the state accounting system, prior appropriation continued . . . . .	\$2,334,014
7004-9316	For a program to provide assistance for homeless families moving into subsidized or private housing and families at risk of becoming homeless due to a significant reduction of income or increase in expenses; 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, electric, gas, sewer and water utility payments for utility arrearages incurred on or after December 1, 2006; provided further, that assistance shall be	

administered by the department through contracts with the regional non-profit housing agencies; provided further, that no 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 a finding that the family experienced a significant reduction of income or increase in expenses and has secured new income or a change in circumstances and that the payment will enable the family to retain its current housing, obtain new housing, or otherwise avoid homelessness; provided further, that in making these findings the agency shall, unless the facts of the case warrant otherwise, 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 these 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; provided further, that the program shall be administered under guidelines established by the department; and provided further, that the department shall provide a status report to the secretary of administration and finance and the house and senate committees on ways and means no later than March 2, 2009, that includes, but is not limited to, all program expenditures, the number of recipients of the funds, the housing status of the recipients before and after receiving assistance, the purposes for which each family used the assistance, the administrative costs and other related costs of



	the program, including whether such recipient resided or continues to reside in state or federal public housing, and any other information necessary to determine the effectiveness of the program .....	\$5,500,000
7004-9317	For the Individual Development Account (IDA) program; provided, that households residing in state-subsidized housing, as defined by the department, shall receive preference for enrollment in the program; provided further, that funds may be awarded to community-based organizations to establish or support local IDA programs; provided further, that funds may be used for administrative costs to operate an IDA program for financial literacy and asset-specific training and as a match for program participant savings for qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, as defined by the department; provided further, that the department may determine other qualified match uses consistent with the guidelines established in federal IDA guidelines pursuant to 42 USC 604; and provided further, that funds may be used to secure federal asset building programs funds .....	\$700,000

*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 .....	\$1,689,673
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*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 or special laws or by regulations; and provided further, that this assessment shall be in addition to any assessments that the division currently assesses upon financial institutions and shall be made at a rate sufficient to produce \$12,582,991 in additional revenue that shall pay for this item .....	\$12,582,991
7006-0011	For the costs incurred by the division of banks associated with licensure of loan originators pursuant to chapter 255F of the	

General Laws; provided, that the division may expend revenues in an amount not to exceed \$5,000,000 from the revenue received from administrative fees associated with said licensure fees and from civil administrative penalties pursuant to said chapter 255F; provided further, that \$2,000,000 shall be expended from such revenue as grants for the operation of a pilot program for best lending practices, first-time homeowner counseling for non-traditional loans and 10 or more foreclosure education centers pursuant to section 16 of chapter 206 of the acts of 2007 and that the grants shall be awarded through a competitive application process under criteria created by the division and that no funds shall be expended from this item in the AA object class for the compensation of state employees for such program; 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 commissioner 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 . . \$5,000,000

*Division of Insurance.*

7006-0020 For the operation of the division of insurance, including the expenses of the board of appeal on motor vehicle liability 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 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 shall immediately transfer calls made to that office to the consumer assistance office in the city of Boston during any business hours when the western Massachusetts office is closed; provided further, that the division shall have an employee or other 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 general or special law or regulation; and provided further, that such assessment shall be in addition to any assessments that the division currently assesses upon such institutions and shall be made at a rate sufficient to produce \$11,132,928 in additional revenue that will pay for this item . . . . . \$11,132,928

7006-0029 For the operation of the health care access bureau of the division of insurance; 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 the institutions which the division currently regulates except for licensed business entity producers under powers granted to the division by general or special law or regulation; provided further, that not less than \$500,000 shall be expended for costs associated with health insurance rate hearings; and provided further, that such assessment shall be in addition to any assessments that the division currently assesses upon such institutions and shall be made at a rate sufficient to produce \$1,100,000 in additional revenue that will pay for this item . . . \$1,100,000

*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 . . . . . \$4,228,906



*Division of Standards.*

7006-0060	For the operation of the division of standards .....	\$746,958
7006-0066	For the support of the division of standards' 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	For the division of standards; provided, that the division 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 measures fees and fines collected from cities and towns .....	\$458,900
7006-0068	For the division of standards; provided, that the division may expend an amount not to exceed \$360,000 from revenue received from license fees assessed to owners of motor vehicle repair shops .....	\$360,000

*Department of Telecommunications and Cable.*

7006-0071	For the operation of the department of telecommunications and cable; provided, that notwithstanding the second sentence of section 7 of chapter 25C of the General Laws, the assessments levied for fiscal year 2009 pursuant to said section 7 of said chapter 25C shall be made at a rate sufficient to produce \$2,513,616 .....	\$2,513,616
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*State Racing Commission.*

7006-0110	For the operation of the state racing commission .....	\$2,113,360
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*Department of Business and Technology.*

7007-0100	For the office of the director of business and technology .....	\$394,608
7007-0300	For the operation of the Massachusetts office of business development, which shall include the operation and support of capital grants programs, including the Massachusetts Opportunity Relocation and Expansion Jobs Capital Program, established in chapter 123 of the acts of 2006, 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 . . . . .	\$3,808,692
7007-0334	For the operation of the office of small business and entrepreneurship and for grants to community development corporations, community development financial institutions or non-profit community-based organizations for the purpose of providing technical assistance or training programs to businesses with 20 employees or fewer . . . . .	\$1,260,697
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; provided that no less than \$60,000 shall be expended to the city of Lynn to promote a Biotechnology incubator space within the city's smart growth district . . . . .	\$760,000
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 for 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 United States Department of Defense; and provided further, that quarterly expenditure reports shall be filed with the house and senate committees on ways and means . . . . .	\$1,204,286
7007-0900	For the operation and administration of the office of travel and tourism; provided, that performance-based standards shall be	

incorporated in all contracts executed by said office for the procurement of tourism marketing and advertising services; provided further, that 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 not less than \$1,250,000 of the amount appropriated herein shall be expended for the operation and administration of the Massachusetts Sports and Entertainment Commission; provided, however, that the Massachusetts Sports and Entertainment Commission shall be the official and lead agency to facilitate and attract major sports events and championships in the commonwealth; provided further, that the Massachusetts Sports and Entertainment Commission shall establish a division within the commission which shall be the official and lead agency to facilitate motion picture production and development within the commonwealth; provided further, that not less than \$100,000 shall be expended for the Bacon Free Library in Natick; provided further, that \$100,000 shall be expended for the Unity Church in Easton; provided further, that \$100,000 shall be expended for the Freedom Trail Foundation Historic Preservation Trust Development Fund; provided further, that \$150,000 shall be expended for the Old Provincial State House; provided further that no less than \$50,000 be expended for the Peter's Park Art Wall of the Urban Art Institute; provided further that no less than \$50,000 be expended for the Friends of Peter's Park; provided further, that not less than \$100,000 shall be expended for the Kwong Kong Chinese School in Boston; provided further, not less than \$100,000 shall be expended for Chinatown Tourism and Trust in the city of Boston; provided further that not less than \$250,000 shall be expended for Springfield Technical Assistance Program to be operated by the Affiliated Chambers of Commerce of Greater Springfield; provided further, that no less than \$200,000 be expended for the Wilmington Historical Commission; provided further, that \$350,000 shall be expended 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; provided further, that \$50,000 be expended



by the town of Westhampton to support the renovation of and supplement existing funding for the Westhampton town library; 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 \$129,000 shall be expended for the operation of Discover Quincy; provided further, that not less than \$200,000 shall be expended to the Mahaiwe Performing Arts Center in Great Barrington; provided further, that not less than \$200,000 shall be expended to The Boston Symphony Orchestra for the renovation, repairs, design and construction to the grounds at Tanglewood; provided further, that not less than \$17,100 shall be expended for a technology grant for the Hopedale Police Department; provided further, that not less than \$125,000, shall be expended for the Hancock Shaker Village for educational programming and marketing purposes; provided further, that not less than \$50,000 shall be expended for the Russian Community Association in Springfield; provided further, that not less than \$100,000 shall be expended for a small business program in the city of Everett; provided further, that not less than \$100,000 shall be expended for the Merrimack Repertory Theatre; provided further, that not less than \$75,000 shall be expended for the renovation of the Bing Theatre, provided further, that no less than \$100,000 shall be expended for the Italian Cultural Center of Western Massachusetts; provided further, that not less than \$250,000 shall be expended for the North Central Massachusetts Development Corporation; provided further, that not less than \$10,000 shall be expended for the operation of the Payson Park Music Festival in Belmont; provided further, that not less than \$250,000 shall be expended for The Berkshire Museum, in the city of Pittsfield; provided further, that not less than \$75,000 shall be expended for the rehabilitation and restoration of the Samuel Harrison House in the city of Pittsfield; provided further, that not less than \$250,000, subject to a 100 per cent matching fund, shall be expended for the Berkshire Economic Development Corporation; provided further, that not less than \$9,000 shall be expended for operating expenses for the Route 195 Visitor Information Center in Wareham; provided further, that not less than \$200,000 shall

be expended for the Spirit of Springfield; provided further, that not less than \$50,000 shall be expended for the purposes of the operation of the programs of the Riverside Theatre Works, an organization located in the Hyde Park section of the city of Boston; provided further, that not less than \$125,000 shall be expended for New England Puerto Rican Association; provided further, that not less than \$175,000 shall be expended for the Springfield Business Improvement District (SBID) of Springfield to be used for the installation of a video camera surveillance monitoring system throughout the central business district area of the city of Springfield; provided further, that not less than \$50,000 shall be expended to operate the Cape Cod Junior Technology Council; provided further, that not less than \$300,000 shall be expended for the Sturbridge Heritage and Preservation Partnership; provided further, that not less than \$250,000 shall be expended for the 495/MetroWest Corridor Partnership; provided further, that not less than \$25,000 shall be expended for the town of Halifax's 275th Anniversary Celebration; provided further, that not less than \$1,000,000 shall be expended through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2009 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, and the Adams Visitor Center in Adams; provided further, that not less than \$50,000 shall be expended for the operation and administration of the Commonwealth Cup, a series within the Canadian-American Association of Professional Baseball; provided further, that not less than \$200,000 shall be expended for the City Stage of Springfield; provided further, that not less than \$50,000 shall be expended on Brockton's Fuller Craft Museum; provided further, that not less than \$150,000 shall be expended to the town of Wendell for an emergency assistance safety grant; provided further, that not less than \$100,000 shall be expended for Battleship Cove in the city of Fall River to assist the Commonwealth's official World War II and 9/11 memorials' educational and tourism endeavors; provided further, that not less than \$100,000 shall

be expended for the Waltham Tourism Council; provided further, that not less than \$40,000 shall be expended for the Newburyport initiative to attract new businesses and industries; provided further, that not less than \$50,000 shall be expended for the economic development project at the Salisbury Chamber of Commerce; provided further, that not less than \$150,000 shall be expended for a child safety program for the town of Wakefield; provided further, that not less than \$50,000 shall be expended to the Merry-Go-Round at Heritage State Park in Holyoke; provided further, that not less than \$65,000 shall be expended for the Designing an Industry initiative at Massachusetts College of Art and Design for cluster research and promotion of the statewide design industry; provided further, that not less than \$50,000 shall be expended for the Springfield Symphony Orchestra; provided further, that \$100,000 shall be expended for the historic Hadley Hall in Hadley; provided further, that \$150,000 shall be expended for the Central Square Theater in Cambridge; provided further, that \$500,000 shall be expended for the Old Provincial State House for stabilization and restoration of the building; provided further, that not less than \$80,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center in Greenfield; provided further, that not less than \$200,000 shall be allocated for environmental improvements in downtown Methuen; provided further, that not less than \$50,000 shall be expended for the START Partnership in Framingham; provided further, that not less than \$75,000 shall be expended for the installation of street lights in the Forest Park area of Springfield; provided further, that not less than \$100,000 shall be expended for the Cape Cod Economic Development Council; provided further, that \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$100,000 shall be expended for the Cape Cod Maritime Museum located in Hyannis; provided further, that not less than \$50,000 shall be expended for the Enterprise Center at Salem State College for the purpose of furthering economic development on the North Shore; provided further, that \$125,000 shall be expended for the purposes of matching a federally-funded grant entitled, the Essex National Heritage



Commission Cooperative Agreement; provided further, that not less than \$50,000 shall be expended for the purposes of furthering the Historic Ports Initiative; provided further, that not less than \$300,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that \$100,000 shall be expended for the Grand Army of the Republic (GAR) Museum in the city of Lynn; provided further, that not less than \$200,000 shall be expended by the local chambers on Cape Cod to include Cape Cod Canal Region, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Hyannis, Mashpee, Orleans and Yarmouth, for the purpose of operating visitor centers; provided further, that not less than \$50,000 shall be made available to the Jacob's Pillow Dance Festival; provided further, that no less than \$2,500,000 shall be expended for a promotional program by the Massachusetts Office of Travel and Tourism to enhance the international tourism market share of the commonwealth, said program to include but not be limited to the countries of Canada, Argentina, Brazil, Great Britain, Ireland, Italy, France, Germany, Japan and Spain; provided further, that no less than \$74,000 shall be expended for the Spectacle of Lights at Heritage Museums and Gardens in Sandwich; 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 Free Shakespeare Company, a program of The Citi Performing Arts Center, for production support for performances offered for free to the public and for a pilot program to expand performances to Springfield and other cities; provided further, that \$200,000 shall be expended for the operation of the Massachusetts Fisheries Recovery Commission on condition that said commission meet quarterly with written notice to all commission members and that the chairmanship and vice chairmanship of said commission shall be determined by a vote of the commission annually during the first meeting of the fiscal year; 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 \$250,000 be expended for the Western Massachusetts Economic Development Council for

developing, marketing and advertising purposes; provided further, that no less than \$100,000 shall be expended for the historic restoration of the main pier at the Gloucester Maritime Heritage Center in the port of Gloucester; provided further, that not less than \$200,000 shall be expended as grants for the Bay State Games; provided further, that not less than \$300,000 shall be expended to the Basketball Hall of Fame in Springfield; provided further that no less than \$25,000 for the town of West Boylston's bicentennial as a one time request to maintain and modestly expand its programs and continue its successful marketing efforts; provided further, that not less than \$150,000 shall be expended for streetscape improvements along Humphrey Street in the town of Swampscott; provided further, that not less than \$40,000 shall be expended for the Revere Beach Partnership, for programs only; provided further, that no less than \$50,000 shall be expended for the Petersham Historical Society; provided further, that no less than \$25,000 shall be expended for the Quaboag Historical Society; provided further that not less than \$50,000 shall be expended for the Johnny Appleseed Visitors' Center; provided further, that not less than \$75,000 be expended for "Marlborough 2010"; provided further, that not less than \$200,000 shall be expended for the Head of the Charles Regatta; provided further, that not less than \$150,000 shall be expended for a child safety program for the city of Melrose; provided further, that not less than \$150,000 shall be expended for restoration and repairs to the historical Crocker Field in the city of Fitchburg; provided further, that not less than \$100,000 shall be expended for an economic development grant in the town of Braintree; provided further, that not less than \$100,000 shall be expended for the law enforcement technology fund in the town of Franklin; provided further, that not less than \$100,000 shall be expended for the Medway Senior Center; provided further, that not less than \$200,000 shall be expended for the Zeiterion Performing Arts Center in New Bedford; provided further, that not less than \$50,000 shall be expended for the New Bedford Art Museum for tourism production; provided further, that not less than \$1,000,000 shall be expended for the international education and foreign language grant program fund established pursuant

to Section 2VVV of chapter 29 of the General Laws; provided further, that not less than \$250,000 shall be expended for new seating in the historic Chevalier auditorium in Medford; provided further, that not less than \$200,000 shall be expended for a child safety grant in the town of Hull; provided further, that not less than \$100,000 shall be expended for the Reagle Players; provided further, that not less than \$100,000 shall be expended for the Russian Community Association of Massachusetts (RCAM) in Boston; provided further, that not less than \$25,000 shall be expended for Essex Street, between houses 506 and 509, in the Town of Saugus; provided further, that not less than \$20,000 shall be expended for the Cultural Center at Elms in Chicopee; provided further, that not less than \$100,000 shall be expended for a grant for the Fino Field Complex in Milford; provided further, that not less than \$75,000 of the funds appropriated herein shall be used to assist year round rural theater organizations on the Lower and Outer Cape through grants for non-prime season operating expenses and audience enhancement initiatives; provided further that not less than \$150,000 shall be expended for the North Adams Armory; provided further, that not less than \$300,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce; provided further, that \$100,000 shall be expended for School Zone safety projects in Arlington; provided further, that the Executive Office of Public Safety and Security shall receive a grant not less than \$200,000 to support the establishment of a pilot transitional employment project in four sites for very high-risk youth and young adults ages 16 – 24 in the cities and/or geographic areas with high incidences of violence, incarceration, court-involvement and related activities; provided further, that the Secretary of Public Safety and Security shall distribute grant funds through a competitive grant program that gives preference to applications that: serve communities that have been identified as being high risk communities for youth and young adult violence; demonstrate multi-disciplinary collaboration, including youth/youngadult serving community organizations, state agencies, local law enforcement, medical and public health professionals, and faith-based organizations; utilize a stages of change frame-



work that includes addressing intervention work with young people including but not limited to transitional employment, education, employment readiness, life skills, substance abuse education and treatment referral as needed, re-entry, promoting accountability, and work with other organizations and the Executive Office of Public Safety and Security to determine best practices and long-term programming for transitional employment; commitment and ability to develop and implement the pilot as proposed in the model including, but not limited to, intensive case management component, re-hire component for transitional employment, work with TA provider, purchase and implementation of Efforts Towards Outcomes for tracking work and outcomes, work with evaluator, and willingness to work as a group to demonstrate the capacity and improve the model; have the ability to provide a minimum match of \$200,000 to pilot the project and have the administrative capacity and organizational mission to implement such a program; and demonstrate the ability to work with the department staff to conduct comprehensive evaluations of program development and implementation activities; provided further, that \$125,000 shall be expended for the historic registry in the town of Stoneham; provided further, that \$125,000 shall be expended for the Sanborn House in the town of Winchester; provided further, that not less than \$10,000 be expended to the Rumney Marsh Burial Ground Restoration Committee for the purpose of rehabilitating the Rumney Marsh Burial Ground in Revere; provided further, that not less than \$250,000 shall be expended for the Prince Hall Youth Mentoring Program; provided further, that not less than \$100,000 shall be expended for the operation of Learn to Cope; provided further, that not less than \$50,000 shall be expended for a traffic safety grant regarding the intersection of Highland Glenn Road and High Street in the town of Westwood; provided further, that \$100,000 shall be expended for senior transportation services provided by SCM Community Transportation in Somerville, Cambridge, and Medford; provided further, that not less than \$150,000 shall be expended for an emergency grant resulting from FEMA declared disaster #1512; provided further, that not less than \$75,000 shall be available for a public safety enhancement

grant for the City of Pittsfield; provided further, that not less than \$50,000 shall be expended for the YouthGROW program; provided further, that not less than \$75,000 shall be expended for the Captain Leonard House in Agawam; provided further, that not less than \$25,000 shall be expended for the Southwick Cultural Council; provided further, that not less than \$250,000 shall be expended for Puerto Rican Cultural Center of Springfield; provided further, that \$100,000 be expended for costs at the Rockwood Sports Complex located in the city of Worcester; provided further, that not less than \$200,000 shall be expended for the Zumix Cultural Organization in East Boston; provided further, that not less than \$50,000 shall be expended for Framingham Downtown Renaissance economic, tourism and cultural development programs; provided further, that not less than \$175,000 be expended for planning and design funding for an economic development program for Needham Heights; provided further, that not less than \$50,000 shall be expended for a child safety grant for the city of Everett; provided further, that not less than \$175,000 be expended for construction plans and bid documents for a new park and recreation building utilizing green technologies in the town of Medfield; provided further, that not less than \$80,000 shall be expended to the Hull Lifesaving Museum for the purpose of planning the Massachusetts Maritime Trail; provided further, that \$51,000 shall be expended for the purpose of funding the Francis Wyman Project; provided further, that \$300,000 shall be expended for a transportation grant to the town of Weston; provided further, that not less than \$225,000 shall be expended for the International Trade Assistance Center in Fall River; provided further, that not less than \$20,000 shall be expended for a Community Development Clinic to be operated by the Southern New England School of Law; provided further, that not less than \$100,000 shall be expended for a public safety program in the town of Dudley; provided further, that not less than \$75,000 shall be expended as a matching grant for the Josiah Dennis Manse; provided further, that not less than \$25,000 shall be provided for an emergency preparedness program for the town of Millville; provided further, that not less than \$50,000 shall be provided for a public safety grant for the town of Uxbridge; 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 \$50,000 be expended for the David Tilden House in the town of Canton; provided further, that not less than \$150,000 shall be expended for a feasibility study on Meadowbrook Road in the town of Chelmsford; provided further, that not less than \$100,000 shall be expended for a transportation development grant in Arlington; provided further, that not less than \$200,000 shall be expended to the Town of Andover for a child safety grant; provided further, that not less than \$25,000 shall be expended for a feasibility study at the Fairhaven Council on Aging facility; provided further, that not less than \$50,000 be expended for a safety enhancement grant for the town of Canton; provided further, that not less than \$50,000 shall be expended for a child safety grant for the town of East Bridgewater; provided further that not less than \$15,000 shall be expended for the New Bedford Festival Theatre; provided further that not less than \$75,000 shall be expended for the Boston Landmarks Orchestra to provide free classical music performances and educational programs at Boston's Hatch Shell and in the communities of Dorchester, Jamaica Plain, Quincy, Charlestown, Roxbury and East Boston; provided further, that \$100,000 shall be expended for the Massachusetts Advocates for the Arts, Sciences, and Humanities to support the rehabilitation of cultural and heritage facilities across the Commonwealth and the fostering of economic opportunity through arts, culture and tourism in the Commonwealth through public education; provided further that not less than \$100,000 shall be expended to the Dunbar Community Center (DCC), Inc., so-called, in Springfield to operate the DCC Teen Safe Zone Program; provided further, that not less than \$350,000 shall be expended for amelioration of an area bounded by Middle, Garey and Commercial Streets in the Town of Weymouth; provided further, that not less than \$500,000 shall be expended for the Museum of Afro-American History located in the city of Boston; provided further, that not less than \$200,000 shall be appropriated to the Spanish American Union, Incorporated, in the city of Springfield; provided fur-



ther, that not less than \$75,000 of said funds shall be dedicated to the Puerto Rican Cuatro Project, a cultural development project under said Spanish American Union Incorporated; provided further, that not less than \$225,000 shall be expended for the Regional Technology Development Corporation of Cape Cod; provided further, that not less than \$100,000 shall be allocated to the city of Worcester to implement a comprehensive marketing initiative; provided further, that not less than \$100,000 shall be expended for a youth recreation and enrichment program in the town of Pembroke; provided further, that not less than \$65,000 shall be expended for the Creative Economy Association of the North Shore; provided further, that not less than \$60,000 shall be expended for the Boston Irish Tourism Association marketing initiatives and for an analysis of the marketability of the Massachusetts Irish Community; provided further, that not less than \$50,000 shall be expended for Plimoth Plantation, Inc., to establish the Cultural Coast Program to promote the southeast region of Massachusetts; provided further, that not less than \$50,000 shall be expended for the Caribbean Carnival Association; provided further, that not less than \$10,000 shall be expended for adolescent outreach awareness in the city of Methuen; provided further, that not less than \$50,000 shall be expended for activities to promote tourism and cultural events in and around the historic downtown in the town of Franklin; provided further, that not less than \$100,000 shall be expended for the Greater Haverhill Chamber of Commerce for the expansion of the Haverhill Means Business program; provided further, that not less than \$50,000 shall be expended for the Louis D. Brown Peace Institute; provided further, that not less than \$120,000 shall be expended for patrols in Wompatuck state park, Hingham Square and the Hingham Harbor sections of Hingham; provided further, that not less than \$50,000 shall be expended for the Attleboro Museum; provided further, that not less than \$150,000 shall be expended for the Greater Food Warehouse of Plymouth Emergency Food Assistance Program; provided further, that not less than \$50,000 shall be expended for the operation of the historic Jenney Grist Mill in the town of Plymouth; provided further, that not less than \$50,000 shall be expended for the Cultural Office of Lowell

to promote the downtown Lowell arts district in conjunction with the Revolving Museum; provided further, that not less than \$50,000 shall be expended for the Claflin Hill Symphony Orchestra; provided further, that not less than \$50,000 shall be expended for the Mansfield Music and Arts Society; provided further, that not less than \$40,000 shall be expended for the operation and the promotion of the Ipswich Shuttle Bus service; provided further, that not less than \$30,000 shall be expended for the landmark Ohabei Shalom Chapel Building in East Boston; provided further, that not less than \$25,000 shall be expended for the Sandwich Glass Museum to promote the education of the glass blowing industry in Massachusetts history; provided further, that not less than \$25,000 shall be expended for the Freedom's Way Heritage Commission; provided further, that not less than \$25,000 shall be expended for the Salisbury Beach Maritime Festival; provided further, that not less than \$25,000 shall be expended for the Plymouth County Development Council for a matching grant program in support of nonprofit organizations; provided further, that not less than \$20,000 shall be expended for the Captain Gerald F. DeConto program in the town of Sandwich; provided further, that not less than \$20,000 shall be expended for the Berkshire Theater Festival in Stockbridge; and provided further, that not less than \$15,000 shall be provided to the Cape Cod Cranberry Growers for the production of a Cranberry Harvest Map; provided further that, not less than \$150,000 to support after school programming in the City of Everett, including the improvement of recreational playing fields; provided further, that not less than \$50,000 shall be expended for the Hopkinton Athletic Association for facilitation, promotion and coordination of activities in connection with the international "Running for the Human Race" project; provided further, that not less than \$25,000 shall be expended for costs associated with making Goff Hall in Rehoboth handicapped accessible; provided further, that not less than \$50,000 shall be provided for the Galaxy Community Council for promoting and hosting the Westover Air Show in the city of Chicopee; provided further that not less than \$100,000 shall be expended for the North End Visitor Center; provided further, that not less than \$50,000 shall be expended for El Jolgorio de Massachusetts

Inc. for enhancing literacy and promoting art among Latino youth; provided further, that not less than \$200,000 shall be expended for From the Top, Inc; provided further, that \$50,000 shall be expended to assist in the planning of a performing arts and cultural center in the town of Milton, including but not limited to feasibility studies and architectural drawings; and provided further, that the town of Milton shall serve as fiscal agent for the project until the establishment of an independent nonprofit corporation to establish and operate a Milton Center for the Performing Arts; provided further, that \$250,000 shall be expended for the promotion of the performing arts in the town of Wakefield; and provided further, that \$100,000 shall be expended for the Stoneham Theater in the town of Stoneham; provided further, that not less than \$200,000 shall be expended for the Barrington Stage Company in the city of Pittsfield; provided further, that not less than \$100,000 shall be expended for the marketing, promotion and operation of Sail Boston 2009; provided further, that \$200,000 shall be expended to Old Sturbridge Village for an international marketing campaign; provided further that \$10,000 be expended to the Town of Palmer for its annual winter festival; provided further, that \$35,000 be expended to Monson Bellman, Inc. to support museum activities; provided further, that \$20,000 be expended to the Town of Palmer for the Palmer Youth Program; and provided further, that not less than \$25,000 shall be expended for the Edson and Westlawn cemeteries . . . \$37,087,309

Tourism Fund . . . . . 100.0%

7007-0951 For the operation of the Commonwealth Zoological Corporation pursuant to chapter 92B of the General Laws; provided, 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 funding in this line item may not be transferred through interdepartmental service agreements; provided further, that the corporation shall report to the house and senate committees



on ways and means not later than February 2, 2009, 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; provided further, that the corporation shall continue to provide free services and supplies including, but not limited to, routine animal check-ups, diagnosis and care, emergency veterinary needs, medications and medical supplies, vitamins and diet supplements and Zoo Prem feline diet, to the Trailside Museum and the Chickatawbut Hill Center in the town of Milton; provided further, that \$750,000 shall be expended on a matching program to encourage private and corporate donations to support the Franklin Park Zoo and Stone Zoo; and provided further, that not less than \$50,000 shall be expended for the Buttonwood Park Zoological Society to establish educational programs, exhibits, and other enhancements; and provided further, that not less than \$50,000 shall be expended for the forest park zoo in the city of Springfield . . . . . \$7,150,000

7007-1000 For assistance to regional tourist councils under section 14 of chapter 23A of the General Laws; provided, that notwithstanding any general or special law or rule or regulation 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 . . . . . \$9,000,000  
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 such cluster-support 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 purchasing cooperatives; and (6) generally improve the perception of the

value and benefits of doing business in the commonwealth; provided further, that amounts appropriated in this item shall be expended to the Massachusetts Technology Park Corporation to be held, applied and administered through its Massachusetts Technology Collaborative; provided further, that said corporation shall establish an independent advisory panel to advise said corporation relative to the most effective application of funds appropriated in this item; and provided further, that the executive director shall file a report with the house and senate committees on ways and means detailing the activities undertaken with the funds appropriated herein not later than January 15, 2009 .....

		\$250,000
7007-1300	For the operation of the Massachusetts International Trade Council .....	\$1,460,000
	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 .....	\$1,102,854

**EXECUTIVE OFFICE OF EDUCATION.**

*Office of the Secretary of Education.*

7009-6379 For the operation of the office of the secretary of education; provided, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations under interdepartmental service agreements; provided, that on a semiannual basis the secretary shall report expenditures made relating to the implementation of project readiness, so-called, as well as anticipated future expenses relating to the implementation; provided further,

that the report shall be submitted to the clerks of the house of representatives and the senate, the joint committee on education, the joint committee on higher education and the house and senate committee on ways and means not later December 1 and July 1 each year; and provided further, the secretary shall expend not less than \$15,000 for the commission relative to the scope of the degree-granting authority of state colleges and the feasibility of establishing a system of state universities pursuant to this act . . . . . \$947,092

*Department of Elementary and Secondary Education.*

- 7010-0005 For the operation of the department of elementary and secondary education; provided, that the department, in collaboration with the commission on gay and lesbian youth established by section 67 of chapter 3 of the General Laws, shall allocate not less than \$300,000 for programming to ensure public schools' compliance with the board of elementary and secondary 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 not less than \$100,000 shall be expended for the operation of the student advisory council established pursuant to section 1E of chapter 15 of the General Laws; and provided further, that not later than November 17, 2008, the department shall submit a progress report to the secretary of administration and finance, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on education on efforts by the department to further define and advance the strategic vision of the department, along with a detailed implementation plan for realizing that vision . . . . . \$16,780,047
- 7010-0012 For grants to cities, towns and regional school districts for payments of certain costs and related expenses for the program to eliminate racial imbalance established under section 12A of chapter 76 of the General Laws; provided, that funds shall be made available for payment for services rendered by METCO, Inc. and Springfield public schools . . . \$21,615,313
- 7010-0020 For the Bay State Reading Institute, Inc.; provided, that the program shall be administered under contract to Middlesex Community College in programmatic collaboration with Framingham State College and 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 schools not meeting the above criteria may be selected for assistance if they contribute not less than half of the cost of the services they receive; 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 Massachusetts Comprehensive Assessment System 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 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; provided further, that funds may be used for a program to train new reading coaches and reading

	coach trainers; and provided further, that funds appropriated in this item for said initiative may be expended through June 30, 2010; and provided further, that not less than \$250,000 shall be expended for the Massachusetts Center for Evidence-Based Literacy Instruction, the purpose of which is to incorporate data-driven instruction, particularly in reading, into the undergraduate teacher education programs at Fitchburg and Framingham State Colleges, in partnership with the Bay State Reading Institute, and to expand advanced degree programs in reading at those colleges to increase the supply of reading specialists and reading coaches who can work with or in schools, such as those who partner with the Bay State Reading Institute, to adopt evidence-based reading instruction	\$1,450,000
7010-0216	For the teacher, principal, and superintendent retention programs established in sections 19B, 19C, and 19E of chapter 15A of the General Laws; provided, that no funds shall be expended for personnel costs	\$595,881
7010-1022	For the development and implementation of certificates of occupational proficiency	\$1,300,000
7027-0016	For matching grants for various school-to-work programs; provided, that the board of elementary and secondary 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 elementary and secondary education may determine the percentage match required on an individual grant basis; provided further, that the department of elementary and secondary 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 elementary and secondary 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 not less than \$245,000 shall be made available to Junior Achievements of Massachusetts, of which not less than \$75,000 shall be provided to Junior Achievement of Eastern Massachusetts, and further, of which not less than \$60,000 shall be provided to Junior Achievement of Central Massachusetts, and further, of which not less than \$60,000 shall be provided to Junior Achievement of Southern Massachusetts, and further, of which not less than \$50,000 shall be provided to Junior Achievement of Western Massachusetts; provided further, that not less than \$50,000 shall be expended for MY TURN, INC. for the purpose of school to work activities, connecting to college activities and youth workforce development activities; provided further, that not less than \$150,000 shall be expended for the town of Southbridge for preventing violence and hate crimes in Kindergarten through 8; provided further, that the program shall also offer parent training and education in violence prevention and racial tolerance; provided further, that \$47,926 shall be made available to the Blue Hills Regional Technical School for the Blue Hills School to Careers Partnership to fund a Teacher Externship Program and a Student Internship Program; provided further, that not less than \$250,000 shall be expended for the Latino After School Initiative; provided further, that not less than \$200,000 be allocated to the Massachusetts Foundation for the Humanities for an adult education program; provided further, that \$250,000 shall be expended for Amer-I-Can Program, Inc. through the Black Men of Greater Springfield, Inc.; provided further, that not less than \$50,000 shall be expended for the Diploma Plus Program at Cape Cod Community College; and provided further, that not less than \$200,000 shall be provided for the Diploma Plus drop out prevention program in partnership with the Commonwealth Corporation and the Massachusetts Department of Elementary and Secondary Education ..... \$3,119,517

7027-0019 For school-to-career connecting activities; provided, that notwithstanding any general or special law to the contrary, the board of elementary and secondary 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 ..... \$4,379,687

7027-1004 For English language acquisition professional development 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, that the department shall only approve professional development courses and offerings with proven, replicable results in improving teacher performance, and which shall have demonstrated the use of best practices, as determined by the department, including data comparing pre-training and post-training knowledge; provided further, that the department shall, not later than February 16, 2009, provide a report on the number of educators who have received such training since passage of chapter 386 of the acts of 2002, the estimated number who need such additional training, and a review and analysis of the most effective types of professional development and the most common gaps in the knowledge base of educators implementing English immersion and teaching English language acquisition, along with legislative or regulatory recommendations of the department; 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; and provided further, that no funds shall be expended for personnel costs . . . . .	\$470,987
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 elementary and secondary 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 elementary and secondary 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, 2008 . . . . .	\$7,726,719
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 department 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 planning transition from half-day classrooms to full-day kindergarten classrooms; provided further, that grants may be awarded in the first year of transition to full-day kindergarten implementation as a transition to Chapter 70 funding in subsequent years; 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 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 \$3,000,000 shall be expended on grants to expand half-day classrooms to new full-day classrooms; provided further, that any unexpended portion of said \$3,000,000 as of January 1, 2009 may be used for quality grants or for first year transition grants as authorized by this item; provided further, that not later than January 15, 2009, the department shall report to the house and senate committees on ways and means on the total number of grants requested and awarded; provided further, that the report shall detail common factors associated with both successful and unsuccessful applications and shall include the total number of full-day and half-day kindergarten classrooms projected to be in operation in public schools in fiscal year 2010; provided further, that funds appropriated in this item for transition grant awards may be expended through August 31, 2009, for the purposes of transition projects scheduled for the school year beginning in September 2009; provided further, that all kindergarten programs previously funded through community partnership councils at the department of early education and care shall receive grants from this item in amounts not less than they received in fiscal year 2008; and provided further, that no funds shall be expended for personnel costs ..... \$33,802,216

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 department shall administer said early literacy grant programs to improve the quality and effectiveness of literacy education to the greatest extent possible; 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 not less than \$100,000 be expended for the TU-LEAP Program; provided further, that \$435,000 shall be expended for JFY.net, a Jobs for Youth initiative for high technology, literacy and job skill instruction to youth and adults through



advanced software and existing infrastructure capacity in schools and community agencies; provided further that not less than \$200,000 shall be expended for the SouthCoast Mentoring Initiative for Learning, Education and Service for the dropout monitoring programs; provided further, that such programs shall supplement currently funded local, state and federal programs at the school or district; 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; and provided further, that no funds shall be expended for personnel costs . . . . . \$3,740,000

7030-1005 For Reading Recovery, an early intervention individual tutorial literacy program 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 not less than \$500,000 shall be expended for matching grants to school districts to support the funding of Reading Recovery teacher's salaries in one-to-one early intervention tutorial literacy programs; and provided further, that said program shall provide ongoing documentation and evaluation of results . . . . \$2,900,000

7035-0002 For the provision and improvement of adult basic education services, including reading, writing and mathematics; provided, that grants shall be distributed 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 elementary and secondary education; provided further, 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 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; provided further, that funds shall only be expended in the CC, HH, PP, and UU object classes; and provided further, that not less than \$50,000 shall be expended for an English as a Second Language Adult Evening School Program in Everett . . . . .	\$31,176,348
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 . . . . .	\$61,300,000
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 said section 8A, initial reimbursements made by the department of elementary and secondary 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 10 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 . . . . .	\$2,075,000
7051-0015	For operating funds to distribute food for the Massachusetts emergency food assistance program . . . . .	\$1,247,000
7052-0006	For grants and reimbursements to cities, towns, regional school districts and counties previously approved by the department of elementary and secondary education under chapter 645 of the acts of 1948 and chapter 70B of the General Laws for 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 break fast 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 elementary and secondary education shall solicit proposals from returning sponsors and school food authorities in time for implementation of such grant program during the summer of 2009; provided further, that such grants shall only be awarded to sponsors who can demonstrate their intent to offer full summer programs or increase participation; provided further, that the department shall require sufficient reporting from each grantee to measure the success of such grant program; provided further, that the department shall select grantees for the program authorized by this item not later than March 30, 2009; provided further, that not less than \$2,011,060 shall be expended for the universal school breakfast program whereby all children in schools receiving funds under the program shall be provided free, nutritious breakfasts at no cost to them; provided further, 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 not later than November 14, 2008, and shall report to the house and senate committees on ways and means on the preliminary results of these grants not later than January 9, 2009; provided further, that nothing in the universal school breakfast program shall give rise to enforceable legal rights in any party or enforceable entitlement to services; and provided further, that the department shall select grantees for the program authorized by this item not later than March 30, 2009, prior appropriation continued . . . . . \$4,277,635

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; 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 elementary and secondary 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 P.L.107-110; and provided further, that the department of elementary and secondary education shall report annually to the house and senate committees on ways and means on school districts' professional development spending . . . . . \$3,948,824,061

7061-0011 For a reserve to: (1) assist regional school districts which, prior to fiscal year 2009, have assessed member towns using the provisions of their regional agreement, and which, in fiscal year 2009, will assess member towns using the required contributions calculated pursuant to section 3; (2) assist towns impacted by stresses in the commercial agricultural, fishing or lobster industry whose required local contribution exceeds 75 per cent of their foundation budget; (3) assist towns 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; provided, that any grants provided under this item shall be expended by a school committee without further appropriation; provided further, that not less than \$250,000 from this item shall be awarded to a qualifying community that hosts a Veterans Administration Hospital; (4) assist regional school districts in rural areas which meet each of the following: (a) they have fewer than 30 full-time enrollment students per square mile; and (b) they have experienced more than 7 per cent enrollment decline between fiscal year 2003 and fiscal year 2008; provided further, that preference shall be given to those districts that have joined the group insurance commission before July 1, 2008; (5) to assist towns in which in excess of one-third of the total land mass of the town is owned and controlled by the commonwealth and which receive payment in lieu of taxes on less than 25 per cent of said land; (6) assist operating districts in which the chapter 70 aid, so-called, distributed in fiscal year 09 is less than the chapter 70 aid distributed in fiscal year 02; (7) assist towns which host a campus of the University of Massachusetts, but which have a target aid percentage of only 17.5%; provided further, that any grants provided to school districts from this item shall be expended by a school committee without further appropriation; provided further, that the department shall make not less than 80 per cent of the awards from this item not later than October 15, 2008; and provided further, that no funds distributed from this item shall be considered prior year chapter 70 aid nor shall they be used in the calculation of the minimum required local contribution for fiscal year 2010 . . . \$5,500,000

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 prorated so that expenses of this item do not exceed the amount appropriated in this item; provided further, that upon receipt by the department of elementary and secondary education of required special education cost reports from school districts, the department shall reimburse districts based on fiscal year 2008 claims; provided further, that not more than \$11,250,000 shall be used to continue and expand voluntary

residential placement prevention programs between the department of elementary and secondary 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 \$11,250,000, not less than \$10,000,000 shall be made available to the department of mental retardation for the voluntary residential placement prevention program administered by that department; provided further, that \$800,000 shall be expended for Recording for the Blind & Dyslexic to provide books in accessible synthetic audio format made available through the federal NIMAS-NIMAC book repository, to do outreach and training of teachers and students for the use of NIMAS-NIMAC and human speech audio digital textbooks, and for human voice recording of MCAS exams; provided further, that, of this \$800,000 \$285,000 shall be expended for the costs of borrowing audio textbooks by special education students; provided further, that \$200,000 of said \$800,000 shall be targeted toward underserved communities in Barnstable, Bristol and Plymouth counties; provided further, that of this \$800,000, not less than \$25,000 shall be expended for the continuation of a pilot program for Recording for the Blind and Dyslexic to provide the tenth grade math and English learning arts MCAS tests in audio digital format; provided further, that no funds shall be expended for the MCAS pilot program until the department of elementary and secondary education examines all security issues related to the pilot program and certifies to the legislature that the pilot program may be carried out without jeopardizing the security of the MCAS exams; provided further, that the report shall be completed not later than November 17, 2008 and shall be forwarded to the house and senate chairpersons of the joint committee on education and the chairpersons of the house and senate committees on ways and means; provided further, that \$450,000 shall be expended for the funding of the costs of 10 intercollaborate networks throughout the Commonwealth to provide partial funding for transportation coordination, administrative support, software updates, maintenance and training; provided further, that the funding shall be expended for the purpose of expanding the 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 collaborative networks; provided further, that \$100,000 shall be expended for the administrative costs for statewide transportation network coordination that will provide funding to the Massachusetts Organization of Education Collaborative for staff, supplies and materials; provided further that the funding shall be expended for providing coordination and support services to the ten collaborative transportation networks; provided further that the special education transportation task force shall submit a report, detailing the reduction in routes, vendors, and savings for participating districts and also a cost model for regions served by the collaborative network by June 30, 2009 to the joint committee on education, and the house and senate committees on ways and means; 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 districts' compliance with the part B requirements of the federal Special Education Law, known as 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 not more than \$500,000 shall be expended to administer the reimbursements funded herein; provided further, that notwithstanding said section 5A of said chapter 71B, the department, at the discretion of the commissioner, may expend up to \$5,000,000 to reimburse districts for extraordinary increases in costs incurred during fiscal year 2009 which would be reimbursable under said section 5A of said chapter 71B; 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 said section 5A of said chapter 71B and incurred during fiscal year 2008 to costs reimbursable under said section 5A of said chapter 71B and incurred during fiscal

year 2009 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 2008 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2009 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 not later than February 13, 2009 on the results of the audits; provided further, that not less than \$2,000,000 shall be expended for partial reimbursement of transportation costs associated with out-of-district placements; provided further, that no district shall be eligible for said reimbursement unless it is participating in the special education transportation pilot program funded through this item, and demonstrates that they have used and applied special education transportation software to share routes; provided further, that all eligible districts shall receive an equal pro-rated share of their total eligible costs upon submission of claims to the department of elementary and secondary education; provided further, that the department of elementary and secondary education, based on the availability of funding, may expend up to \$500,000 to identify, analyze and certify promising and best practices in public and approved special educational programs that can prevent or ameliorate either neurodevelopmental problems or other deficits leading to learning deficiencies or behavior problems that result in high cost Individual Education Plans; provided further, that a portion of these available funds shall be expended to provide grants for training, dissemination and applications of research identified as promising and best practices; and provided further, that a report shall be provided to the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on education not later than March 31, 2009 . . . . . \$230,043,700

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7061-0029	For the office of educational quality and accountability or any successor entity to the office of educational quality and accountability for the purpose of promoting school district accountability . . . . .	\$2,974,554
7061-0222	For grants issued by the department of elementary and secondary education on a competitive basis to school departments for targeted intervention for the purpose of establishing low-class size classrooms in grades K-3, starting in FY09 with kindergarten, to assist the schools in improving their performance and to establish the efficacy of such a program in reducing gaps in achievement between at-risk and other children; provided further that the grants shall be used for establishing a class size of 15-17 pupils for kindergartens in the selected schools, planning, professional development, and other activities that enhance the capacity of the schools to develop a successful program; provided further that an evaluation/research component be included by the department to assess the efficacy of reduced class size in the early years in enhancing student achievement; provided further that the department may allocate a reasonable sum for evaluation/research and administration; provided further that the department may set additional criteria in awarding the grants, such as geographic distribution or diversity of size or types of school systems; and provided further, that said grants shall be coordinated by the department with all efforts undertaken through item 7061-9408 . . . . .	\$400,000
7061-9010	For fiscal year 2009 reimbursements to certain cities, towns and regional school districts of charter school tuition and the per pupil capital needs component included in the charter school tuition amount for commonwealth charter schools, as calculated under subsections (nn) and (oo) of section 89 of chapter 71 of the General Laws; provided, that notwithstanding the provisions of subsection (nn) of section 89 of chapter 71 of the General Laws or any other general or special law to the contrary, the per pupil capital needs component of the commonwealth charter school tuition rate for fiscal year 2009 shall be \$893; and provided further, that if the amount appropriated is insufficient to fully fund all reimbursements required by said section 89, the department shall fully reimburse the cost of said per pupil capital needs component	



	and shall pro-rate the tuition reimbursements calculated under said subsection (oo) .....	\$79,751,579
7061-9200	For the education technology program; provided, that not less than \$650,000 shall be expended for the ongoing costs associated with the Education Data Warehouse and Reporting System (Data Warehouse) .....	\$5,448,093
7061-9400	For student and school assessment including the administration of the Massachusetts comprehensive assessment system (MCAS) exam established by the board of elementary and secondary education pursuant to sections 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 .....	\$29,310,695
7061-9404	For grants to cities, towns and regional school districts to provide targeted remediation programs for students in the classes of 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012 and 2013, scoring in level 1 or 2 on the Massachusetts comprehensive assessment system (MCAS) exam established by the board of elementary and secondary education pursuant to the provisions of sections 1D and 1I of said chapter 69 of the General Laws; 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 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 elementary and secondary education; provided further, that such programs shall supplement currently funded local, state, and federal programs at the school or district; 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 2009, 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, 2005, 2006, 2007, 2008 and 2009 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, 2009, 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 organizations 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 elementary and secondary education, for intensive remediation programs in communities with students in the graduating classes of 2003 to 2013, inclusive, who have

not obtained a competency determination or have scored in levels 1 or 2 on either the English or math MCAS exams; provided further, that the department of elementary and secondary education may give preference for such assistance to those districts with a high percentage of high school students scoring in level 1 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; provided further, that no district shall receive a grant from this appropriation until said district submits to the department of elementary and secondary education a comprehensive district plan pursuant to the provisions of section 1I of chapter 69, to improve performance of all student populations including, but not limited to, students with disabilities; provided further, that not less than \$1,000,000 shall be transferred to JFY networks, a non-profit corporation formerly Jobs for Youth, for a matching grant for the purposes of enhancing student performance on the MCAS examination through instructional computer software; 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 afterschool programs in methods for using assessment data to develop effective strategies to improve student performance on the MCAS; provided further that not less than \$100,000 shall be expended for the Clean State program in the city of Springfield; provided that \$15,000 shall be expended for the Lynn At-Risk Youth; provided further, that \$30,000 shall be expended for the Resiliency for Life program in Framingham; provided further, that not less than \$180,000 shall be expended for the Invest-in-Kids program to provide after school programs in the city of New Bedford; provided further, that not less than \$125,000 shall be expended for Casa Dominicana in Lawrence; provided further, that not less than \$100,000 shall be expended for Esperanza Academy School of Hope; provided further, that not less than \$100,000 shall be expended for Lawrence Learning Center and Community Development in the City of Lawrence; provided further, that not less than \$75,000 shall be expended for Link Services at



the Pettengill House in Salisbury 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 \$50,000 shall be expended for El Jolgorio's Hispanic Writers Program for improving literacy skills and conflict resolution in Latino youth; provided further, that \$50,000 shall be expended for the Astro Park at Barnstable High School; provided further, that not less than \$75,000 shall be expended for Greater Lawrence Community Action Council, Inc.'s Spanish Community Services Program; provided further, that \$75,000 shall be expended for The WhizKids Foundation, Inc.; provided further, that not less than \$50,000 shall be expended for Centro Latino de Chelsea to provide adult basic education services in the city of Chelsea; provided further, that not less than \$370,000 shall be allocated to the Framingham public schools to evaluate existing dual- immersion programs in the town of Framingham and elsewhere in the Commonwealth, including an evaluation of best practices and all professional development related to these programs; provided further, that \$30,000 shall be expended to provide matching grants for Early Intervention Tutorial Literacy teachers in each of the towns of Dalton and Bernardston to provide literacy intervention services for students in danger of failure on the MCAS test; provided further, that no less than \$87,500 be expended to provide funding for Camp Pohelho in Tewksbury; provided further that not less than \$100,000 shall be expended for programming and activities at the Newburyport Youth Services youth enrichment center; provided further, that any evaluation will examine the likelihood and efficiency of replication of these programs and practices in school districts with a large percentage of English language learners; provided further, that these funds may be expended for professional development related to these programs; provided further, that the department shall issue a report not later than February 2, 2009, and annually thereafter as a condition of continued funding under this account, in collaboration with the department of higher education, describing MCAS support programs for the graduating classes

of 2003 to 2013, 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 any grant funds distributed from this item to a city, town or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town, or regional school district without further appropriation, notwithstanding any general or special law to the contrary; and provided further, that no costs shall be expended for personnel costs ..... \$13,391,393

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, schools and districts which have which have been placed in the accountability status of identified for improvement, corrective action, or restructuring pursuant to departmental regulations, or which have been designated Commonwealth priority schools or Commonwealth Pilot Schools pursuant to said regulations; 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 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 preference in distributing funds shall be made for proposals which coordinate reform efforts within all schools of a district in order to prevent conflicts between multiple reforms and interventions among the schools; provided further, that not more than \$1,200,000 of this amount shall be expended on the Commonwealth pilot school initiative established by the board in November 2006; provided further, that not more than \$200,000 of this amount shall be expended on regionalism study grants to explore methods of improving the delivery of education services in



areas of declining student enrollment, including but not limited to, studies of fully regionalizing partial regional school districts, funding demographic studies to project future district enrollments, and exploring creative means of collaborating across regions, including sharing curriculum specialists, professional development providers, transportation services, and other educational and instructional interventions between regions; provided further, that the department shall issue a report, no later than February 2, 2009 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 include an analysis of the number of districts with curriculum plans not aligned to the Massachusetts curriculum frameworks, along with any legislative and regulatory recommendations to address the issue; provided further, that said report shall indicate the number of schools which have accepted the Commonwealth pilot school model, the reforms which they have undertaken, and the number which have expressed interest in the pilot school option; provided further, that said report shall be pro-

vided 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, 2009 to allow for intervention and school and district improvement planning in the summer months; provided further, that not less than \$200,000 be expended for a pilot parent engagement program including, but not limited to, a Randolph Parents' Academy and Parents' Support Network operated by the Randolph Public Schools; provided further, that not more than \$100,000 shall be expended to reimburse planning and implementation expenses incurred by municipalities in their efforts to establish new regional school districts; 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 . . . \$9,175,041

7061-9411 For the creation of leadership academies for principals and superintendents pursuant to section 58 of chapter 15 of the General Laws; provided, that said training shall focus on expanding and increasing the capacity of the principal or superintendent to be an instructional and educational leader within the district or school; provided further, that said training shall include, but not be limited to: training in effective personnel evaluation, curriculum development, with a focus on aligning the district and school 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 use student achievement data to drive instructional change, and

techniques for developing collaborative relationships with parents and community organizations; provided further, that the department shall issue a report, not later than February 16, 2009, on the implementation of this initiative, which shall include, but not be limited to, the number of principals and superintendents who have been trained in such academies, the number who have expressed interest in such academies, the level of need for leadership training, the most commonly requested types of training, and a preliminary analysis of the effectiveness of the academies in improving the quality of instructional leadership in the commonwealth; 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; and provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2009, to allow for principal and superintendent training which occurs in the summer months . . \$2,500,000

7061-9412 For grants to cities, towns, and regional school districts for the purpose of planning for and implementing expanded learning time in the form of longer school days or school years at selected schools; provided, that implementation grants shall only be provided under this item to schools and districts which submitted qualifying applications which were approved by the department in fiscal year 2008 and which including a minimum of an additional 300 hours on a mandatory basis for all children attending that school; provided further, that in approving expanded learning time 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 with proposals that have the greatest potential for district-wide impact, those districts that plan to utilize partnerships with community-based organizations and institutions of higher education, and those districts with proposals that include a comprehensive restructuring of the entire school day and/or year to maximize the use of the additional learning time; provided further, that the department shall approve implementation proposals that include an appropriate mix of additional time spent on core academics,



additional time spent on enrichment opportunities such as small group tutoring, homework help, music, arts, sports, physical activity, health and wellness programs, project-based experiential learning and additional time for teacher preparation and/or professional development; provided further, that the department shall only approve implementation proposals that assume not more than \$1,300 per pupil per year in future state appropriations of expanded learning time implementation funds; provided further, that in extraordinary cases the department may exceed the \$1,300 per pupil per year limit; provided further, that the department shall review all qualified proposals and award approved grants not later than August 14, 2008; provided further, that in carrying out the provisions of this item, funds may be expended by the department to evaluate the impact and effectiveness of the program; provided further, that the department shall issue an annual report, not later than February 2, 2009 on the implementation of plans in all participating districts; provided further, that said report shall include, but not be limited to: the names of schools and school districts participating; the number of students attending these schools and the nature and type of changes made in participating schools as a result of this program; provided further, that the report shall also include an anticipated budget for this program for the next fiscal year and a breakdown of the distribution of the \$1,300 per student by school; 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 committees on ways and means and the house and senate chairs of the joint committee on education; provided further, that for this item, appropriated funds may be expended through August 31st, 2009 to allow for planning and implementation during the summer months; provided further, that any grant funds distributed from this item to a city, town, or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding any general or special law to the contrary; and provided further,

that no funds shall be expended for personnel costs at the department of elementary and secondary education . . . . . \$17,500,000

7061-9600 For a discretionary grant pilot program with the purpose of providing monies to school districts and state public institutions of higher education partnering together to offer inclusive concurrent enrollment programs for students with disabilities as defined in section 1 of chapter 71B of the General Law ages 18-22; provided, that the grant program will be limited to said students who are considered to have severe disabilities and have been unable to achieve the competency determination necessary to pass the Massachusetts comprehensive assessment system (MCAS) exam; provided further, that said students with disabilities shall be offered enrollment in credit and noncredit courses that include nondisabled students, including enrollment in noncredit courses and credit bearing courses in audit status for students who may not meet course prerequisites and requirements, and that the partnering school districts will provide supports, services and accommodations necessary to facilitate a student's enrollment; provided further, that the department, in consultation with the department of higher education shall develop guidelines to ensure that the grant program promotes civic engagement and mentoring of faculty in state institutions of higher education, and supports college success, work success, participation in student life of the college community, and provision of a free appropriate public education in the least restrictive environment; provided further, that not more than \$50,000 shall be distributed to the department of higher education in order to increase the capacity of public institutions of higher education to include students with severe disabilities in the concurrent enrollment pilot program including \$4,000 for production of a video to be used for provision of training and technical assistance; provided further, that not more than \$50,000 shall be allocated to the department of elementary and secondary education to provide training and technical assistance to school districts for program implementation including \$4,000 for production of said video to be used for provision of training and technical assistance; provided further, that the department of elementary and secondary education, in consultation with the

	department of higher education, shall report to the house and senate committees on ways and means, the joint committee on education and the joint committee on higher education on said discretionary grant program not later than February 16, 2009; and provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2009 .....	\$1,575,000
7061-9604	For teacher preparations; and provided further, that not more than \$70,000 shall be expended for the Sea Education Association programs for teachers .....	\$2,032,758
7061-9610	For matching grants of \$1,000 per enrolled child to Citizen Schools afterschool learning programs for middle school children across the commonwealth including, but not limited to, those administered in Boston by Citizen Schools, in Lowell by Community Teamwork, Inc., in Malden by the Partnership for Community Schools, in New Bedford by Positive Action Against Chemical Addiction, in Springfield by The Martin Luther King Jr. Community Center and, in Worcester by the Greater Worcester YMCA, upon documentation by Citizen Schools of \$1 in private sector, local or federal funds for every \$1 in state funds, and that all funds go to programs certified by Citizen Schools, Inc.; provided, that up to \$50,000 of the \$550,000 shall be available to Citizen Schools Inc. to support state-wide training and evaluation efforts, and to further establish the efficacy of the Citizen Schools program in promoting school success, high school completion and college and workforce success for low-income, at-risk students across the commonwealth .....	\$550,000
7061-9611	For grants or subsidies for after-school and out-of-school programs; provided, that preference shall be given to after-school proposals developed collaboratively by public and non-public schools and private community based programs; provided further, that the department shall fund only those applications which contain accountability systems and measurable outcomes, under guidelines to be determined by the department in consultation with the department of early education and care; provided further, that applicants shall detail funds received from all public sources for existing after school and out-of-school programs and the types of programs and type of students served by said funds; provided further, that funds may be directed to increase comprehensive after	



school and out of school time programming to school age children and youth during the school year and the summer, including but not limited to 21st century community learning centers programs; provided further, that funds from this item may be used for a variety of activities, including but not limited to: (1) academic tutoring and homework centers where content is linked to and based on the curriculum guidelines promulgated by said department, (2) programs which improve the health of students, including physical activities, athletics, nutrition and health education, and exercise, (3) art, theater, and music programs developed in collaboration with the Massachusetts cultural council, local cultural councils, or cultural organizations in the Commonwealth funded by the Massachusetts cultural council, (4) enrichment activities not otherwise provided during the school day, (5) advanced study for the gifted and talented, and (6) community service programs; provided further, that \$100,000 from this item shall be expended for services that actively include children with disabilities in after-school programs that also serve non-disabled children and services that include children where English is a second language, including but not limited to: increased per-child reimbursement rates, additional staff, technical assistance, training, and transportation; provided further, that not less than \$100,000 shall be expended for Girls, Inc. in the city of Lynn for improvements to its program as approved by the board of directors of Girls, Inc.; provided further, that the department of elementary and secondary education shall consult the executive office of health and human services and the department of early education and care to maximize the provision of wrap-around services and to coordinate programs and services for children and youth during after-school and out-of-school time programs; provided further, that the department shall select grant recipients not later than September 30, 2008, and shall report on the preliminary results of said grants not later than February 16, 2009, to 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 committees on ways and means; and provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2009

	to allow for implementation of said programs during the summer months; and provided further, that \$50,000 shall be directed to the Massachusetts After school Partnership to convene regional networks, to work with the department of elementary and secondary education and the department of early education and care to support the implementation of school-community partnerships and to submit a report by October 15, 2008, to the general court and the administration making recommendations on how to enhance school-community partnerships and positive outcomes for children and youth through funding as provided in this item . . . . .	\$5,550,000
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 Institute shall not be required to expend any funds for the cost of these students while in attendance at the Institute; provided further, that the Massachusetts Academy of Mathematics and Science shall 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 academy shall file a report with the joint committee on education and the house and senate committees on ways and means by February 2, 2009 detailing the professional development activities; provided further, that the department of elementary and secondary education shall provide a subsidy to the Worcester Polytechnic Institute to operate a school of excellence in mathematics and science; and provided further, that not less than \$850,000 shall be expended for the University of Massachusetts at Lowell to develop, plan and conduct a pilot program in preparation for establishing a new program in math, science, engineering and technology for academically accelerated students in their final 2 years of high school . . . . .	\$2,175,231
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; and provided further, that no funds shall be expended for personnel costs . . . . .	\$1,195,840

7061-9619	For the purpose of funding the Benjamin Franklin Institute of Technology; provided, that the institute shall have access to the Massachusetts education computer system; and provided further, that the institute may 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 the 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 not 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; provided further, that the programs may be made available by a city, town or regional school district; and provided further, that for the purpose of the programs, appropriated funds may be expended through August 31, 2009 .....	\$765,000
7061-9626	For grants and contracts with youth-build programs for the purposes of providing comprehensive youth-build services ...	\$2,770,500
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 elementary and secondary 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 \$1 disbursed from this item; provided further, that funds may be expended to support the mentoring activities of the P.L.A.Y., Inc. program; provided further, that the Massachusetts Service Alliance shall submit a report detailing the expenditure of 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, 2008; and provided further, that not more than \$225,000 shall be expended for Camp Coca Cola New England to provide underserved youth development services with an emphasis on leadership training and community service . . . . . \$712,000

7061-9804 For teacher content training in math and science; provided, that said training shall include math specialist and Massachusetts test for educator licensure preparation; provided further, that funds from this item shall be expended on content based professional development in math and science, with a focus on increasing the content knowledge of elementary and middle school math and science teachers in districts with a high percentage of students scoring in level 1 or 2 on the math or science Massachusetts Comprehensive Assessment System exams, 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; provided further, that such professional development courses shall demonstrate proven, replicable results in improving teacher and student performance, and shall demonstrate the use of best practices, as determined by the department, including data comparing pre-training and post-training content knowledge; provided further, that not less than \$100,000 shall be expended for the Massachusetts Math and Science Initiative for the purpose of providing grants to no less than 10 school districts for teacher training for advanced placement instruction; provided further, that the department shall report, not later than February 16, 2009, on the number of educators provided content training under this item, the estimated number of math and science teachers currently teaching without certification, and any legislative or regulatory recommendations necessary to make middle school and elementary math and science education more rigorous and data driven; 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 for personnel costs; and provided further, that for the purpose

	of this item, appropriated funds may be expended through August 31, 2009 .....	\$991,367
7061-9805	For administering a Bullying Prevention Program for schools to implement bullying prevention and intervention plans throughout the commonwealth; provided, that not less than \$50,000 shall go to the department of elementary and secondary education for the purposes of administering the Bullying Prevention Program and maintaining a Bullying Prevention Resource repository online at the department's web page; and provided further, that not less than \$200,000 shall be appropriated to the Massachusetts Aggression Reduction Center at Bridgewater State College for the purposes of working in consultation with the department of elementary and secondary education to expand the Center's capabilities to bring policy-production and bullying prevention services to public schools in the commonwealth . . .	\$250,000

*Department of Higher Education.*

7066-0000 For the operation of the department of higher education; provided, that the department 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 to 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 commissioner of higher education and approved by the secretary of administration and finance; provided further, that \$2,000,000 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; provided further, that not less than \$2,000,000 shall be expended for the department to make payments to public higher education institutions for the dual enrollment program allowing qualified high school students to take college courses; provided further, that public higher education institutions may offer courses in high schools in addition to courses offered at the institutions or online if the number of students is sufficient; and provided further, that not less than \$250,000 shall be expended for the establishment of text-messaging emergency notification systems at the campuses of the University of Massachusetts and all state and community colleges in coordination with the department of public safety	\$6,512,898
7066-0005	For the commonwealth's share of the cost of the compact for education	\$112,924
7066-0009	For the New England board of higher education; provided, that not less than \$100,000 shall be expended for the College Ready New England program	\$467,500
7066-0015	For the community college workforce training incentive grant program established in section 15F of chapter 15A of the General Laws	\$2,000,000
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	\$1,285,000
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 commissioner 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 \$14,395,295 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 the Massachusetts state scholarship office shall expend not less	

than \$20,773,508 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 \$350,000 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 commissioner 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 \$1,689,945 shall be expended on the administration of the scholarship program; provided further, that not less than \$4,000,000 shall be expended on a 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 further, 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 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 department, but who have displayed talent and capability at working with young children that make them strong applicants for this scholarship opportunity; provided further, that not less than \$1,000,000 of said funds shall be expended on a pilot scholarship program for math and science teachers who have received waivers from certification regulations, and are “out of field teachers”, so-called; provided further, that the board of higher education, acting in consultation with the board of elementary and secondary education, shall establish appropriate guidelines and application criteria for the administration of the program; provided further, that the scholarship 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 math and science teachers who are taking higher education courses or pursuing degrees to meet the teacher certification requirements of the department of elementary and secondary education; provided further, that eligible recipients shall be math and science teachers who are working in the commonwealth and who commit to continue teaching math and science for a term of service after graduation to be determined by the boards; provided further, that preference shall be given to applicants identified by their superintendent or principal as highly talented educators who have already displayed commitment to education and to instructional excellence, who do not otherwise meet the certification requirements of the department, but who have displayed talent and capability in working with children that make them strong applicants for this scholarship opportunity; provided further,



that not less than \$850,000 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 level, 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 department of higher education; provided further, that One Family Inc. shall work with the department 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 not later than January 15, 2009; provided further, that said report shall include the number of applications for said grants in fiscal year 2009, number of awards granted, amount of said awards and program projections for fiscal year 2009; 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 a foreign language, 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 . . . . . \$96,875,218

7077-0023 For a contract with the Tufts School of Veterinary Medicine; provided, that funds appropriated in this item shall be expended

under the 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 in this item 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 . . . . . \$5,525,000

7520-0424 For a health and welfare reserve for eligible personnel employed at the community and state colleges . . . . . \$5,670,398

*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 \$1,500,000 shall be provided to the University of Massachusetts Medical School to enhance efforts to increase the number of graduating medical students in primary care specialties including, but not limited to: increasing enrollment of the incoming class by not less than 10 students, increasing financial incentives for those choosing careers in primary care and expanding undergraduate medical education programs in primary care; provided further, that not more than \$200,000 of said \$1,500,000 shall be used to coordinate primary care workforce outreach, tracking and training with the center for primary care recruitment and placement within the department of public health; 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 \$500,000 shall be expended in fiscal year 2009 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, that not less than \$25,000 shall be expended for the maintenance of the cranberry bog at the University of Massachusetts at Amherst Cranberry Station at Wareham; provided further, that not less than \$368,000 shall be expended for the Mauricio Gaston Institute for Latino Community Development and Public Policy at the University of Massachusetts at Boston; provided further, that not less than \$350,000 shall be expended for the William Trotter Institute; provided further, that the sum expended for the UMass Extension in fiscal year 2009 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 and recommended by the UMass Extension Board of Public Overseers; provided further, that not less than \$250,000 shall be expended for the Future of Work Initiative at the University of Massachusetts Labor Centers at the Amherst, Boston, Dartmouth and Lowell campuses; provided further, that not less than \$150,000 shall be expended for an ongoing study by the University of Massachusetts at Amherst's agricultural department, of the winter moth worm and methods to minimize or eliminate its damage; provided further, that not less than \$60,000 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 \$50,000 shall be expended for the 4-H program; and provided further, that not less than \$50,000 shall be expended for the UMASS Dartmouth Center for Business Research ..... \$496,385,600

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; provided, that not less than \$250,000 shall be expended for research on breast cancer prevention performed in collaboration with the University of Massachusetts at Lowell, the Silent Spring Institute and the Massachusetts Breast Cancer Coalition ..... \$1,917,454



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7100-0500 For the operation of the department of higher education's Commonwealth College Honors program at the University of Massachusetts at Amherst .....	\$3,630,000
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 ....	\$39,708,032
7110-0100 For Fitchburg State College; provided, that Fitchburg State College may expend funds to assist public schools in the cities of Gardner, Fitchburg and Leominster to build capacity, including professional development, infrastructure and hardware, for a pilot wireless learning initiative in Worcester county .....	\$27,965,597
7112-0100 For Framingham State College; provided, that not less than \$160,000 shall be expended for the regional economic research center; and provided further, that \$130,000 shall be expended for the operation of the commonwealth's global education centers .....	\$25,113,809
7113-0100 For the Massachusetts College of Liberal Arts; provided, that not less than \$350,000 shall be expended for capacity building through the wireless learning initiative in conjunction with the Massachusetts Technology Collaborative; and provided further, that of said \$350,000 not less than \$100,000 shall be expended for the assessment and evaluation of the higher education resources available to the residents of Berkshire County .....	\$14,465,462
7114-0100 For Salem State College; provided, that not less than \$200,000 shall be expended for the aquaculture program established under section 274 of chapter 38 of the acts of 1995; provided further, that not less than \$922,313 shall be expended for the second degree nursing program; and provided further, that not less than \$701,000 shall be expended for the operation and maintenance costs associated with the acquisition of the GTE/Sylvania property located in the city of Salem .....	\$40,065,432
7115-0100 For Westfield State College .....	\$23,292,562

7116-0100 For Worcester State College; provided, that not less than \$300,000 shall be expended for the Latino Education Institute .....	\$23,740,787
7117-0100 For the Massachusetts College of Art .....	\$15,378,203
7118-0100 For the Massachusetts Maritime Academy; provided, that not less than \$325,000 shall be expended for the development of an alternative energy source with Massachusetts Technology Collaborative; provided further, that not less than \$454,000 shall be expended for the 1-time purchase of an engineering power plant simulator to provide training for public safety officials and other maritime agencies; and provided further, that \$100,000 shall be expended for the Woods Hole Diversity Advisory Committee .....	\$14,730,086

*Community Colleges.*

7502-0100 For Berkshire Community College; provided, that not less than \$100,000 shall be available for the operation and maintenance costs associated with the use of the Joseph Scelsi Intermodal Center, located in the city of Pittsfield, by Berkshire Community College and Massachusetts College of Liberal Arts ...	\$9,556,459
7503-0100 For Bristol Community College .....	\$16,533,805
7504-0100 For Cape Cod Community College; provided, that not less than \$126,652 shall be expended for the operation of the environmental technology, education and job training partnership; provided further, 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 energy and environmental affairs and the University of Massachusetts at Dartmouth shall participate in the testing and evaluation of innovative technologies .....	\$11,805,132
7505-0100 For Greenfield Community College .....	\$9,388,876
7506-0100 For Holyoke Community College .....	\$19,179,959
7507-0100 For Massachusetts Bay Community College .....	\$14,260,213
7508-0100 For Massasoit Community College .....	\$20,749,341

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7509-0100	For Mount Wachusett Community College; provided, that not less than \$100,000 shall be expended for the Latino education and family development program . . . . .	\$13,142,497
7510-0100	For Northern Essex Community College . . . . .	\$19,531,078
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; provided, that not less than \$250,000 shall be expended for the public policy institute and resource center . . . . .	\$21,015,308
7512-0100	For Quinsigamond Community College; provided, that not less than \$100,000 shall be expended to support the development of a South County Quinsigamond Community College satellite campus . . . . .	\$15,510,951
7514-0100	For Springfield Technical Community College; provided, that not less than \$535,206 shall be expended 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 further, 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 . . . . .	\$25,165,995
7515-0100	For Roxbury Community College; provided, that not less than \$946,000 shall be expended for the operation of the Reggie Lewis Track and Athletic Center . . . . .	\$11,551,618
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, other special athletic events, conferences, meetings, and programs; and provided further, that only expenses for contracted services associated with these events and for the capital needs of the facility shall be funded from this item; prior appropriation continued .....		\$529,843
7516-0100 For Middlesex Community College .....		\$20,489,236
7518-0100 For Bunker Hill Community College; provided, that \$108,000 shall be obligated for the life focus center .....		\$21,349,398

**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 the executive office of public safety, in conjunction with the criminal history systems board, shall perform a study relative to establishing a statewide central register containing all available identifying data of any missing person, which includes any adult suffering from dementia missing from his normal and ordinary place of residence and whose whereabouts cannot be determined by the person responsible for such person’s care; provided further, that the department shall submit a report detailing the findings of said study to the house and senate committees on ways and means not later than March 15, 2009; provided further, that not less than \$300,000 shall be expended for the purpose of a targeted control substance interdiction pilot program to be administered by the chiefs of police for the city of Revere and the town of Winthrop; provided further, that not less than \$100,000 shall be provided for the On-Site Academy in Gardner; provided further, that not less than \$100,000 shall be expended for the youth violence and street crimes unit of the Randolph police department; provided further, that \$25,000 shall be expended to the Quabbin Regional School District for the implementation of the Quabbin Emergency Preparedness Plan; and provided further,

	that \$70,000 shall be expended to the town of Hubbardston to support its emergency shelter . . . . .	\$3,124,281
	Highway Fund . . . . .	85.0%
	General Fund . . . . .	15.0%
8000-0010	For community policing grants to be administered by the executive office of public safety and security; provided, that no such grants shall be awarded to the department of state police; provided further, that any community that received funds through this item in fiscal year 2008 shall receive at least that amount in fiscal year 2009; 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 tuition, salaries and benefits for non-community policing personnel and payments for non-related overtime; and provided further, that not later than March 16, 2009, the executive office of public safety and security 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 . . . . .	\$21,351,035
8000-0038	For the operation of a witness protection program pursuant to chapter 263A of the General Laws; prior appropriation continued	
8000-0040	For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers . . . . .	\$50,202,122
8000-0054	For municipal police grants to be administered by the executive office of public safety and security; provided, that no such grants shall be awarded to the department of state police; provided further, that these funds are intended for funding of municipal officers, but not as a permanent subsidy; provided further, that the executive office of public safety and security in conjunction with representatives from municipal government and law enforcement, the house and senate committees on ways and means and the joint committee on public safety and homeland security shall develop a formula to distribute the funds; provided further, that grant recipients shall submit quarterly reports to the executive office of public safety and security, the house and senate committees on ways and means and the joint committee on public safety and homeland security which shall detail the fiscal and program-	

	matic steps taken with the grant funds to enhance municipal policing efforts; and provided further, that not more than \$100,000 of the sum appropriated in this item shall be expended for costs to administer the program . . . . .	\$4,000,000
8000-0060	For the costs associated with implementation of chapter 228 of the acts of 2000; provided, that the secretary of public safety and security may allocate funds appropriated in this item to agencies within the executive office of public safety and security . . . . .	\$10,000

*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 the agency shall submit a report to the house and senate committees on ways and means not later than January 15, 2009 detailing the caseload of said office; and provided further, that said report shall include, but not be limited to, the number of toxicology tests, the reduction of turnaround time of toxicology tests and the reduction of the case backlog, the number of autopsies performed, the number of cases under the office's jurisdiction, the number of external exams performed, the number of cases determined to be homicides, and the number of cremations performed under the office's jurisdiction in 2007 and 2008 . . . . .	\$8,719,907
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; provided further, that the practices and procedures of the state police crime laboratory shall be informed by the recommendations of the Forensic Sciences Advisory Board; provided further, that the agency shall report to the house and senate committees on ways and means, and the joint committee on public safety and homeland security, not later than December 31, 2008, concerning, but not limited	



to, the detailing of the number of cases introduced to the CODIS database, the number of confirmations attained from the CODIS database, and the number of cases referred to district attorney delineated by county ..... \$16,706,813

*Criminal History Systems Board.*

8000-0110 For the operation of the criminal history systems board; including criminal justice information services, criminal offender record information services, firearms support services, and victim services; 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 of the General Laws and clause (c) of the first paragraph of section 172 of chapter 6 of the General Laws; provided further, that the 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 offender record information when qualifying applicants for state-assisted housing; provided further, that the board shall, not later than September 30, 2008, 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 making corrections to a criminal offender record information report to an individual who submits evidence to the board that 1 or more 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; provided further, that not later than

January 1, 2009, 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; and provided further, that not less than \$346,417 shall be expended for a CORI training and audit unit ..... \$6,732,924

Highway Fund ..... 50.0%

General Fund ..... 50.0%

8000-0122 The office of the chief medical examiner may expend for its operations an amount not to exceed \$1,300,000 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 ..... \$1,300,000

*Criminal History Systems 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; provided, that the \$75 registration fee paid by convicted sex offenders shall be directed from the General Fund to the Massachusetts Office for Victim Assistance . . . . \$4,928,494

8000-0202 For the purchase and distribution of sexual assault evidence collection kits; provided, that no funds shall be expended in the AA object class; and provided further, that administrative resources provided from other items for the implementation of this program in fiscal year 2008 shall not be reduced in fiscal year 2009 ..... \$120,000

8100-0000 For the administration and operation of the department of state police; provided, 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 energy and environmental affairs at no cost to, or compensation from, that office; provided further, that not less than \$2,710,146 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 for directed patrols in fiscal year 2008 shall receive 100 per cent of the amount so earmarked in fiscal year 2009; provided further, that not less than \$1,050,000 shall be expended to curb gang-related activities; provided further, that not less than \$150,000 shall be provided for the State Courts Against Road Rage program; provided further, that any municipality that was eligible to receive earmarked funds for curbing gang-related activities in fiscal year 2008 shall receive the same amount in fiscal year 2009; provided further, that there shall be a study submitted to the house and senate committees on ways and means not later than January 30, 2009, on traffic details worked by the department of state police, including troops A, B, C, D, E, F, and H, over the last 5 years, which shall detail, on a monthly basis: the total number of hours worked on traffic details by state police officers, the total amount paid to state police officers for traffic details, the standard hourly rates for traffic details done by state police officers and the city or town in which traffic details are performed by state police officers; provided further, that not less than \$90,121 shall be expended



for the costs associated with a training seminar for fourteen members of the Massachusetts State Police Bomb Squad in collaboration with the Israeli General Security Service and the Israeli National Police; 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 . . \$256,755,080

Highway Fund ..... 88.2%  
General Fund ..... 11.8%

8100-0006 For private police details; provided, that the department may expend up to \$19,000,000 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 2009 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 2009 ..... \$19,000,000

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 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 ..... \$5,000,000

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 2009, 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: (a) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (b) 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: (a) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (b) provisions governing payment to the department for the cost of equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; provided further, that 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 For the department of state police; provided, that the department may expend for the costs of security services provided by state police officers, including overtime and administrative costs, an amount not to exceed \$900,000 from fees charged for these services; 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 .....	\$ 900,000
8100-0020 For the department which may expend an amount not to exceed \$135,000 in fees charged for the use of the statewide telecommunications system for the maintenance of the system .....	\$135,000
8100-0101 For the department which may expend for the Governor's Auto Theft Strike Force an amount not to exceed \$331,200 from fees for services performed through the auto etching program and from assessments upon the insurance industry .....	\$331,200
8100-0111 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 and security, to support regional, multidisciplinary 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 and security shall distribute grant funds through a competitive grant program that gives preference to applications that: (a) demonstrate high levels of youth violence, gang problems and substance abuse in a region; (b) demonstrate a commitment to regional, multijurisdictional strategies to deal with such community safety issues, including written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (c) clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (d) make a written commitment to match grant funds with a 25 per cent	



match provided by either municipal or private contributions; and (e) 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 attorney's offices, may apply for such funds; provided further, that such funds shall be considered one-time and grants awarded to public agencies and shall not annualize into fiscal year 2010 or subsequent years; 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 and security shall publish guidelines and an application for the competitive portion of the grant program not later than August 15, 2008; provided further, that awards shall be made to applicants not later than December 15, 2008; and provided further, that the executive office of public safety and security may expend not more than \$100,000 of the sum appropriated in this item for its costs in administering the programs ..... \$13,000,000

*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 police chiefs; (d) e-mail, toll-free consultation to chiefs on administrative issues and follow-up on seminar topics; (e) a statewide 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 \$25,000 shall be provided for the purposes

of additional rental and utility payments to the town of Boylston; provided further, that not less than \$25,000 shall be expended to the town of Salisbury as startup funding for the new Essex County Policy Institute, a reserve officer training academy; and provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated in this item . . . \$2,911,398

8200-0222 The committee may collect and expend an amount not to exceed \$1,262,500 for the purposes of providing training to new recruits; provided, that the committee shall charge \$2,500 per recruit for the training; provided further, that notwithstanding any general or special law to the contrary, the committee shall charge a fee of \$2,500 per person for training programs operated by the committee for all persons who begin training on or after July 1, 2008; 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 2008 and 2009; provided further, that the report shall be submitted to the house and senate committees on ways and means no later than January 1, 2009; 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 . . . \$1,262,500

*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; provided further, that the salaries of the commissioner and the deputy commissioner of the department of public safety shall be paid from this item; and provided further, that not less than \$150,000 shall be expended for the University of Massachusetts Lowell Environmental Health and Safety Department for the use of fire intumescent/refractory paint . . . \$2,771,301
- 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 42 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, 2008; 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 inspections are conducted; and provided further, that the division shall inspect all elevators in the state house and the McCormack office building . . . . . \$5,273,285

8315-1020 For the department of public safety which may expend not more than \$1,818,600 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 the department shall provide a full waiver of the inspection fee for an individual who requires a wheelchair lift as a medical necessity and whose annual income does not exceed the maximum allowable federal SSI benefit, or \$7,236

a year, whichever is greater; 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 more than the lesser of this authorization or the most-recent revenue estimate as reported in the state accounting system . . . . . \$1,818,600

8315-1025 The department of public safety may collect and expend an amount not to exceed \$130,000 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 . . . . \$130,000

*Department of Fire Services.*

8324-0000 For the administration of the department of fire services, including the state fire marshal’s office, the Boston Fire Department training academy, 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 and the operations of the Boston Fire Department training academy; provided, that the fire training program shall use the split days option; provided further, that \$1,296,000 shall be provided for the Commonwealth’s Hazardous Material Response Teams; provided further, that not less than \$1,200,000 shall be expended for the SAFE program, which shall include information about the fire risks caused by smoking; provided further, that not less than \$100,000 shall be expended for the administration of a statewide program to provided critical incident stress intervention for fire departments in cities, towns and fire districts including, but not limited to, consultant services, training, equipment and supplies; provided further, that \$1,150,000 shall be provided for the Boston, Cambridge and

Everett Fire Department Hazardous Material Response Teams; 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 in the commonwealth and paid within 30 days after receipt of 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 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 2009 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, under 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 to maintain and improve services of the Norfolk County Regional Fire & Rescue Dispatch Center; provided further, that not less than \$2,500,000 shall be expended for the firefighting equipment grant program for fire departments of every city, town, fire district and authority of the commonwealth to be administered by the executive office of public safety; provided further, that the expenses of the fire safety commission shall be paid from this item; provided further, that not less than \$1,750,000 shall be provided for the Boston Fire Department training academy; and provided further, that



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	not less than \$28,812 shall be expended for the costs of operating the Hampshire/Franklin juvenile fire setters intervention program .....	\$19,398,315
8324-0304	For the department of fire services; provided that the department may expend for the purposes of enforcement and training an amount not more than \$300,000 from revenue generated under chapter 148A of the General Laws and sections 8 and 9 of chapter 304 of the acts of 2004 .....	\$300,000
8324-1101	For the costs of the department for the enforcement of underground storage tank compliance standards set forth in sections 38B to 38I, inclusive, of chapter 148 of the General Laws and the rules and regulations adopted under those sections .....	\$114,342

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; provided further, that the division may expend funds appropriated in this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services; 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 .....	\$9,207,659
8700-1140	For the state quartermaster who may expend not more than \$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 not more than \$250,000 for salaries, subsistence, quarters and associated costs for national guard soldiers ordered to perform state missions under 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

8700-1150 For reimbursement of the costs of the Massachusetts national guard tuition and fee waivers under section 19 of chapter 15A of the General Laws; provided, that no funds shall be distributed from this item prior to certification by the state and community colleges and the University of Massachusetts of the actual amount of tuition and fees waived for national guard members attending public institutions of higher education under said section 19 of said chapter 15A that would otherwise have been retained by the campuses, according to procedures and regulations promulgated by the military division of the Massachusetts national guard; provided further, that funds from this item may be expended through August 31, 2009 for the reimbursement of the tuition and fees waived for classes taken during the summer months; provided further, that the military division of the Massachusetts national guard and the board of higher education shall issue a joint report not later than February 15, 2009 on the implementation of this waiver; provided further, that the report shall be submitted to the secretary of administration and finance, the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on veterans and federal affairs and the house and senate chairs of the joint committee on higher education; and provided further, that the military division may expend funds from this item for administrative services . . . . . \$3,424,492

*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 . . . . . \$1,458,182

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 public utilities 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 . . . . . \$419,553

- 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 public utilities 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 companies" shall not include municipalities or municipal light plants . . . . . \$304,272
- 8800-0300 For environmental monitoring of the nuclear power plant in Seabrook, New Hampshire, including a continuous real-time radiological monitoring system for cities and towns in the commonwealth 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 the commonwealth which own, in whole or in part, or purchase power from the Seabrook nuclear power plant; provided further, that the department of public utilities 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 an amount shall be allocated so that the 7 western



towns in the commonwealth designated as "emergency planning zones" may be additionally monitored by the department of public health through the purchase of expert scientific and academic advice and appropriate equipment; provided further, that said allocation will be funded by the utilities that purchase power from the Vermont Yankee Nuclear Power Plant; provided further, that not less than \$75,000 shall be expended for Phase 2 of the monitoring update for C-10 of Newburyport; provided further, that 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, 2009 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 for 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 and security 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 and security 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 \$80,000 shall be provided for the Dismas House in Worcester; provided further, that the department shall expend

not less than \$750,000 to the municipality hosting the facility at Cedar Junction; provided further, that in an effort to monitor and reduce current levels of over-classification, the department of correction shall provide quarterly reports to the joint committee on public safety and the house and senate committees on ways and means with data on the number of prisoners at each security level; provided further that not less than \$150,000 shall be expended to the Black Men of Greater Springfield, Inc., so-called, in Springfield to act as the lead agency to provide after school and out-of school programs, and programs to avoid and reduce incarcerations, recidivism, gang-violence, and promote good citizenship; provided further, that not less than \$200,000 shall be provided for the Aid to Incarcerated Mothers organization; provided further, that the department may expend funds appropriated in this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the parole board and the sex offender registry board; and provided further, that \$192,000 shall be expended for the community that hosts the Bay State Correctional Center . . . \$530,536,205

8900-0010 For prison industries and farm services . . . . . \$3,137,417

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 these reimbursements shall not be available for expenditure and shall be deposited in 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 . . \$3,000,000

8900-1100 For re-entry programs at the department of correction intended to reduce recidivism rates; provided, that said programs shall be in addition to those provided in fiscal year 2006; provided further, that the department shall report to the house and senate committees on ways and means not later than January 20, 2009 on re-entry programming at the department of correction; and provided further, that not less than \$200,000 be expended for the operation of SPAN, Inc. . . . . \$1,200,000

*County Correction.*

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 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 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 the 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 2009 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 and security; provided further, that notwithstanding the other provisions 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 such 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 and security 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 and security, shall be filed with the Massachusetts Sheriffs' Association at least 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, 2008, each county sheriff shall submit a final spending plan for fiscal year 2009 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 2009, as determined by the county government finance review board; provided further, that each sheriff shall submit to the executive office of public safety and security and the house and senate committees on ways and means copies of such spending plans not later than August 15, 2008; provided further, that on or before September 15, 2008, the county government finance review board shall have approved final fiscal year 2009 county correction budgets; provided further, that the county government finance review board shall provide the executive office of public safety and security and the house and senate committees on ways and means with copies of such approved budgets not later than October 15, 2008; provided further, that such budgets shall include distribution schedules for the final 2 quarters of fiscal year 2009 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 2009, 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 2008 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 2009, 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 2009 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, 2009 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, 2008, the deputy commissioner shall report all such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year 2009, 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 in the county, in towns by a majority vote of the town meeting



	or town council, and in cities by a majority vote of the city council or board of aldermen, with the approval of the mayor or manager; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after September 01, 2008 for Bristol County, September 01, 2008 for Suffolk County, January 15, 2009 for Norfolk County and March 15, 2009 for Barnstable and Dukes Counties; and provided further, that after said dates, no charge or contract shall be made with alternate vendor to provide pharmacy services other than the state office of pharmacy services . . . . .	\$195,179,966
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 . . . . .	\$155,040
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 2009 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 not later than March 16, 2009; 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 2009; 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 these 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 these 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 item 8910-0000 . . . . .	\$2,700,829

*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, 2008; and provided further, that \$88,000 shall be expended for a re-entry initiative program within the Hampden sheriff's department . . . . .	\$73,973,122
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, 2008; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback,	

item 4510-0108 of section 2B, after April 1, 2008; and provided further, that after April 1, 2009, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services .....	\$45,738,415
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 senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2008; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after February 15, 2009; and provided further, that after February 15, 2009, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services. ....	\$67,816,384
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, 2008 .....	\$9,898,238
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, 2008; provided further, that not more than \$225,000 shall be expended for the lease payments for modular units located at 205 Rock Hill Road in the city of Northampton; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after November 15, 2008; and provided further, that after November 15, 2008, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services .....	\$13,240,012



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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, 2008; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after November 15, 2008; and provided further, that after November 15, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services . . . . .	\$16,259,327
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 therefor as reported in the state accounting system; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system . . . . .	\$850,000
8910-0188	For the Franklin sheriff's department which may expend for the operation of the department an amount not to exceed \$2,100,000 from revenues received from federal inmate reimbursements; 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 . . . . .	\$2,100,000

- 8910-0445 For the Berkshire sheriff's department which may expend an amount not to exceed \$250,000 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 . . . . . \$250,000
- 8910-0446 For the Berkshire sheriff's department which may expend an amount not to exceed \$1,100,000 from revenues collected from Berkshire county public school systems; 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 sheriff's office may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; and provided further, that expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system . . . . . \$1,100,000
- 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, 2008; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after July 01, 2008; and provided further, that after July 01, 2008, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services. . . . . \$50,324,103
- 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 \$12,000 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 . . . . .	\$12,000
8910-1000	For a prison industries revenue retention account for the Hampden sheriff's department; provided, that the department may expend any amount not to exceed \$1,594,460 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 . . . . .	\$1,594,460
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 \$150,000 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 in the Massachusetts management accounting and reporting system . . . . .	\$150,000
8910-1112	The Hampshire county sheriff may expend for the operation of the Hampshire county regional lockup at the Hampshire county jail an amount not to exceed \$250,000 in revenue; provided, that that the sheriff shall enter into agreements to provide detention services to various law enforcement agencies and municipalities and shall determine and collect fees for those detentions from the law enforcement agencies and municipalities . . . . .	\$250,000
8910-2222	For 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 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 . . . . .	\$320,000
8910-6619	For 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 2009; provided, 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
8910-7100	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 the staff shall not be subject to section 45 of chapter 30 or 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 2009; and provided further, that the report shall be submitted to the house and senate committees on ways and means not later than February 2, 2009 . . . . .	\$344,400

*Parole Board.*

8950-0001	For the operation of the parole board . . . . .	\$18,963,004
8950-0002	For the victim and witness assistance program of the parole board under chapter 258B of the General Laws . . . . .	\$292,244
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 more than \$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 2, 2009, which shall include, but not be limited to, the number of parolees participating in the program and the re-incarceration rate of participating parolees . . . . .	\$600,000

*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 under 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, under section 183 of chapter 6 of the General Laws; provided further, that the registry shall operate a full-service branch in the town of Southbridge; provided further, that the registry shall operate an office in the city of Fall River; provided further, that the registry shall operate a full service office in the town of Milford to be operated 5 days a week; 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 shall operate an office in the city of Taunton and the town of
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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 \$ ..... 57,464,135  
Highway Fund ..... 100.0%  
8400-0016 For the operation of the motorcycle safety program ..... \$252,607  
8400-0100 For the operation of the safe driver insurance plan pursuant to section 113B of chapter 175 of the General Laws, including the rent, related parking and utility expenses of the motor vehicle insurance merit rating board; provided, that notwithstanding 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 ..... \$8,874,872  
Highway Fund ..... 100.0%

**DEPARTMENT OF ELDER AFFAIRS.**  
*Office of the Secretary.*

9110-0100 For the operation of the executive office and regulation of assisted living facilities; provided, that the secretary shall continue to support community care ombudsman services; and provided further, 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 ..... \$3,741,705  
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 chapter 19A of the General Laws; provided further, that notwithstanding any general or special law to the contrary, unless otherwise prohibited by state or federal law, prescription drug coverage or benefits payable by the executive office of elder affairs and the entities with which it has contracted for administration of the subsidized catastrophic drug insurance program pursuant to said section 39 of said chapter 19A, shall be the payer of last resort for this 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 this program is subject to appropriation and, in fiscal year 2009, expenditures shall not be more than the amount authorized in this item; 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 all legislation required to implement such actions for review and analysis by the general court; provided further, that the executive office 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; 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; or by other plans which provide creditable prescription drug coverage as defined by section 104 of said Medicare Modernization Act, and which provide coverage of the cost of prescription drugs actuarially equal to or better than that provided by Medicare Part D; provided further, that a person

	shall also be eligible to enroll in the program at any time within a year after reaching age 65; and provided further, that the department shall allow those who meet the program eligibility criteria to enroll in the program at any time during the year; and provided further, that the secretary of elder affairs shall not implement cost sharing increases during fiscal year 2009 unless such cost sharing increases have been approved by law a vote of the general court . . . . .	\$57,533,656
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, that the secretary shall actively seek to obtain federal financial participation for all services provided to seniors who qualify for Medicaid benefits pursuant to the section 2176 waiver; provided further, that the executive office 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 2008 federal poverty income levels and 2008 social security income standards; provided further, that the report shall be submitted not later than February 2, 2009; and provided further, that the executive office shall submit a report not later than October 15, 2008, 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, 2008, compared to the number of individuals on a waiting list on July 1, 2008 . . . . .	\$48,199,305
9110-1604	For the operation of the supportive senior housing program at state or federally-assisted housing sites; provided, that the funds shall be expended to fully fund existing sites . . . . .	\$4,202,915
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, geriatric mental health 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 \$8,000,000 in revenues accrued from sliding fees shall be retained by the individual home care corporations without re-allocation by the executive office of elder affairs, and shall be expended for the purposes of the home care program, consistent with guidelines to be issued by the executive office; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues accrued from the sliding fees; provided further, that the executive office shall report monthly to the house and senate committees on ways and means and the executive office for administration and finance on the amount expended from this item for purchase of service expenditures by category of service as set forth in 651 C.M.R. 3.01 and 651 C.M.R. 3.06; provided further, that no rate increase shall be awarded in fiscal year 2009 which would cause a reduction in client services or the number of clients served; provided further, that no funds shall be expended from this item to pay for salary increases for direct service workers who provide state-funded homemaker and home health aid services which would cause a reduction in client services; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated in this item to item 9110-1633 for case management services and the administration of the home care program . . . . . \$106,715,568

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 . . . . . \$40,368,041



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; provided, that not less than \$800,000 shall be expended for money management services .....	\$16,246,087
9110-1640	For the Geriatric Mental Health Services program, including residential care, case management, and day treatment services, to deinstitutionalize or divert elders with serious and persistent mental illness from institutionalized settings .....	\$225,000
9110-1650	For the family caregivers program .....	\$250,000
9110-1660	For congregate and shared housing services for the elderly; provided, that \$375,000 shall be expended for an aging-in-place project operated by the Jewish Family & Children's Service of Greater Boston in Brookline and Malden, and by Jewish Family Service of Metrowest in Framingham; provided further, that not less than \$216,000 shall be allocated to the Helping Elders at Risk Through Homes program; provided further, that not less than \$75,000 shall be expended for the Jewish Family Services of Western Massachusetts to implement the Aging-Well at Home Program in Springfield; provided further, that not less than \$75,000 shall be expended to fund the NORC, Aging-In-Place program operated by the Jewish Family Service of the North Shore in Swampscott; provided further, that no less than \$75,000 shall be expended for the Multicultural Alzheimer's Service Project in Springfield; provided further, provided further that not less than \$50,000 be expended for the Tuttle House facility in Dorchester; provided further, that not less than \$150,000 shall be used to fully fund a supportive housing program at Edward F. Doolan Apartments in the city of Fall River; provided further, provided further, that \$90,000 shall be expended for the AgeWell Boston program operated by Ethos; and provided further that not less than \$50,000 shall be expended for the Kit Clark Homeless/Housing Program to provide support for homeless and recently housed older adults. ....	\$2,789,031
9110-1700	For residential assessment and placement programs for homeless elders; provided, that \$50,000 shall be expended for Living Waters Ministry of Hope for homeless outreach programs .....	\$450,000
9110-1900	For the elder lunch program; provided, that not less than \$50,000	

shall be expended for the Senior FarmShare program; provided further, that not less than \$15,000 shall be expended for the Grandparents as Parents Initiative; provided further that \$40,000 shall be obligated for youth/elder outreach position at the Roche Family Community Center in West Roxbury; and provided further, that \$300,000 shall be expended for Community Physicians Associates for the purposes of administering a geriatrics program which shall include, but not be limited to inpatient care, outpatient care, rehabilitation and post-acute care, long-term care and assisted living counseling, and education of caregivers . . . . . \$6,804,740

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; provided further, that not less than \$80,000 shall be provided to the LGBT Aging Project; and provided further, that such distribution schedules shall be submitted to the house and senate committees on ways and means . . . . . \$8,615,068

LEGISLATURE.

Senate.

9500-0000 For the operation of the Senate . . . . . \$18,964,007

House of Representatives.

9600-0000 For the operation of the house of representatives . . . . . \$33,658,753

Joint Legislative Expenses.

9700-0000 For the joint operations of the legislature . . . . . \$6,980,895

Commission on the Status of Women.

0950-0000 For the commission on the status of women . . . . . \$252,634

NO SECTION 2A.

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 would cause that fund to be in deficit at the close of fiscal year 2009 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 2009 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 where appropriate; provided further, that the secretary of state may expend revenues not to exceed \$100,000 of such funds received for the costs of such obsolete record destruction; and provided further, that such fees shall be charged on an equitable basis .....	\$100,000

Office of the State Comptroller.

1000-0005	For the cost of the single state audit for the fiscal year ending June 30, 2009; provided, that the comptroller is hereby authorized to charge other appropriations and federal grants for the cost of said audit .....	\$750,000
1000-0008	For the costs of operating and managing the MMARS and New MMARS accounting system for fiscal year 2009 .....	\$2,570,081
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, 2008 a monthly report on the agencies that currently, or will during fiscal year 2009 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; and provided further, that the report shall include both estimated payments and prior expenditures ..... \$11,217,734

*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 ..... \$3,318,743

*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 ..... \$12,500,000

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 ..... \$26,000,000

*Division of Human Resources.*

1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the 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 ..... \$500,000

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 2009 to the house and senate committees on ways and means no later than March 2, 2009; 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 2009 as provided in this item 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 2009; (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 2008, and may include such additional amounts as the human resources division finds necessary under regulations adopted under this item; 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 2008 shall be transferred to the General Fund; provided further, that any unspent balance at the close of fiscal year 2008 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 2009; provided further, that the personnel administrator may expend in fiscal year 2009 for hospital, physician, benefit, and other costs related to workers' compensation for employees of state agencies, including administrative expenses; and provided further, that such expenditures may include payments for medical services provided to claimants in prior fiscal years, as well as compensation benefits and associated costs for prior fiscal years	\$56,401,355
1750-0106	For the workers' compensation litigation unit, including the costs of personnel	\$639,023

*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	
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senate or any joint legislative account in fiscal year 2009; 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 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; 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; and provided further, that any unspent balance at the close of fiscal year 2009 in an amount not to exceed 5 per cent of the amount authorized shall remain in the Intergovernmental Service Fund and may be expended for the item in fiscal year 2010 . . \$62,121,176

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 . . . . . \$2,329,665

**EXECUTIVE OFFICE OF ENERGY AND 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 . . . . . \$7,475,343

4000-0103 For the costs of core administrative functions performed within the executive office of health and human services; provided,

that 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 further, that common functions that may be designated core administrative functions include, human resources, financial management, information technology, and leasing and facility management; 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; 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 item shall impair or change an employee's status, rights, or benefits under chapter 150E of the General Laws . . . . . \$27,625,533

*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 . . . . . \$250,000



*Department of Public Health*

4510-0108 For the costs of pharmaceutical drugs and services provided by the state office for pharmacy services, in this section called SOPS; provided, that SOPS shall notify in writing all agencies listed below of their obligations under this item by July 15, 2008; provided further, that SOPS shall continue to be the sole provider of pharmacy services for the following agencies currently under SOPS: the department of public health, the department of mental health, the department of mental retardation, the department of correction, the sheriff's departments of Franklin, Hampden and Plymouth, and the Soldiers' Home in Holyoke; provided further, that SOPS shall become the sole provider of pharmacy services to the following agencies currently not being serviced by SOPS: the sheriff's departments of Worcester, Middlesex, Hampshire, Berkshire, Essex, Suffolk, Norfolk, Bristol, Barnstable and Dukes, the Soldiers' Homes in Chelsea and the department of youth services; provided further, that SOPS shall be the sole provider of pharmacy services for all said agencies and all costs for pharmacy services shall be charged by this item; provided further, that pursuant to the SOPS report completed on December 15, 2007, said agencies shall not charge or contract with any other alternative vendor for pharmacy services other than SOPS; provided further, that SOPS shall develop an implementation plan to transition the following agencies within the current fiscal year: the sheriff's departments of Worcester, Middlesex, Hampshire, Berkshire, Essex, Suffolk, Norfolk, Bristol, Barnstable and Dukes, the Soldiers' Homes in Chelsea and the department of youth services; provided further, that SOPS will validate previously submitted pharmacy expenditures including HDAP drug reimbursements during fiscal year 2009; provided further, that SOPS shall continue to work to reduce medication costs, provide standardized policies and procedures in a clinically responsible manner, provide comprehensive data analysis and improve the quality of clinical services; provided further, that SOPS shall report to the house and senate committees on ways and means no later than April 15, 2009 detailing the projected savings realized by each transitioning agency in comparison to their pharmacy costs in fiscal year 2008 and their projected

	savings for fiscal year 2010; and provided further, that the report shall also provide recommendations for the inclusion of other entities that may realize cost savings by joining SOPS	\$45,786,520
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; provided, 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 thereof 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 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 thereof as reported in the state accounting system	\$3,800,000
<i>Department of Mental Retardation.</i>		
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	\$10,000,000

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**  
*Department of Highways.*

6030-7501 For the cost of the purchase of bulk fuel for certain vehicles under the authority of the operational services division and the cost of purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel ..... \$1,000,000

**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 thereof as reported in the state accounting system . . . \$6,481,181

8100-0003 For the costs associated with the use of the statewide telecommunications system for the maintenance of the system . . . . . \$156,375

*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 operational services division; 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

**NO SECTION 2C.**

**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



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29 of the General Laws. The amount of any unexpended balance of federal grant funds received prior to June 30, 2008, and not included as part of an appropriation item in this section, is hereby made available for expenditure during fiscal year 2009, in addition to any amount appropriated in this section.

**JUDICIARY.**

*Supreme Judicial Court*

0320-1700	For the purposes of a federally funded grant entitled, State Court Improvement Program .....	\$265,631
0320-1701	For the purpose of a federally funded grant entitled, CIP Data Sharing Grant .....	\$204,516
0320-1703	For the purpose of a federally funded grant entitled, CIP Training Grant .....	\$179,656

**DISTRICT ATTORNEYS.**

*Plymouth District Attorney.*

0340-0908	For the purposes of a federally funded grant entitled, Weed and Seed Campello .....	\$175,000
0340-0816	For the purposes of a federally funded grant entitled, Drug Free Communities .....	\$50,000

*Bristol District Attorney.*

0340-0806	For the purposes of a federally funded grant entitled, Weed and Seed .....	\$200,000
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*Cape and Islands District Attorney.*

0340-1013	For the purposes of a federally funded grant entitled, Federal Forfeiture Trust Account .....	\$60,000
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**SECRETARY OF STATE.**

0521-0800	For the purpose of a federally funded grant entitled, Election Assistance for Disabled Individuals .....	\$700,041
0526-0114	For the purposes of a federally funded grant entitled, Historic Preservation Survey and Planning .....	\$800,000

**TREASURER AND RECEIVER GENERAL.**

*Massachusetts Cultural Council.*

0640-9716	For the purposes of a federally funded grant entitled, Folk and Traditional Arts Initiative .....	\$20,000
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0640-9717	For the purposes of a federally funded grant entitled, Basic State Plan .....	\$633,300
0640-9718	For the purposes of a federally funded grant entitled, Arts Education .....	\$62,200
0640-9724	For the purposes of a federally funded grant entitled, Arts in Underserved Communities .....	\$151,000
0640-9729	For the purposes of a federally funded grant entitled, Challenge America .....	\$158,500

*Department of Veterans' Services.*

1410-0254	For the purposes of a federally funded grant entitled, Urban Homeless Veterans Reintegration .....	\$200,000
1410-0255	For the purposes of a federally funded grant entitled, Non-Urban Homeless Veterans Reintegration .....	\$300,000

**ATTORNEY GENERAL.**

0810-0026	For the purposes of a federally funded grant entitled, Crime Victim Compensation .....	\$3,000,000
0810-6664	For the purposes of a federally funded grant entitled, Cyber Crime Information Sharing .....	\$202,769

*Victim and Witness Assistance Board.*

0840-0110	For the purposes of a federally funded grant entitled, Victims of Crime Assistance Programs .....	\$7,941,620
0840-1005	For the purposes of a federally funded grant entitled, Massachusetts Statewide Victim Assistance Academy .....	\$60,000
0840-4611	For the purposes of a federally funded grant entitled, Byrne Federal Grant. ....	\$195,000
0840-4620	For the purposes of a federally funded grant entitled, VAWA Federal Grant .....	\$265,880

**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 \$350,000 of fringe benefit and indirect cost charges pursuant to section 6B of chapter 29 of the General Laws .....	\$1,729,498
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*Office on Disability.*

1107-2450	For the purposes of a federally funded grant entitled, Client Assistance Program .....	\$239,839
1107-2509	For the purposes of a federally funded grant entitled, Disabled Persons Protection Commission, Multi-Disciplinary Responses to Crime .....	\$300,000

**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 \$350,000 of fringe benefit and indirect cost charges pursuant to section 6B of chapter 29 of the General Laws .....	\$1,729,498
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*Office on Disability.*

1107-2450	For the purposes of a federally funded grant entitled, Client Assistance Program .....	\$239,839
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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 .....	\$222,169
1201-0412	For the purposes of federally funded grants entitled, Child Support Enforcement Grants, Child Support IVD Companion account to CSE Demonstration Grants .....	\$179,667

**EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

2000-0141	For the purposes of a federally funded grant entitled, Coastal Zone Management and Development .....	\$3,600,000
2000-0177	For the purposes of a federally funded grant entitled, Wetlands Development .....	\$27,663
2000-0186	For the purposes of a federally funded grant entitled, Aquatic Nuisance Species Management Plan .....	\$63,421
2000-0248	For the purposes of a federally funded grant entitled, National Estuary Program — Operation .....	\$472,501



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2000-9600	For the purposes of a federally funded grant entitled, Narragansett Bay .....	\$73,370
2000-9701	For the purposes of a federally funded grant entitled, Outdoor Recreation Projects - Political Subdivisions .....	\$2,317,517
2000-9735	For the purposes of a federally funded grant entitled, Buzzards Bay Estuary Program .....	\$514,304
2000-9760	For the purposes of a federally funded grant entitled, Inventory of Navy Shipwrecks .....	\$4,490
2030-0013	For the purposes of a federally funded grant entitled, Fisheries Enforcement .....	\$668,576
2030-9701	For the purposes of a federally funded grant entitled, Safe Boating Program .....	\$4,763,189

*Department of Public Utilities.*

7006-9000	For the purposes of a federally funded grant entitled, Motor Carrier Safety Assistance .....	\$102,000
7006-9002	For the purposes of a federally funded grant entitled, Pipeline Security .....	\$630,000

*Department of Environmental Protection.*

2200-9706	For the purposes of a federally funded grant entitled, Water Quality Management Planning .....	\$534,866
2200-9712	For the purposes of a federally funded grant entitled, Cooperative Agreement-Leaking Underground Storage Tanks .....	\$984,806
2200-9717	For the purposes of a federally funded grant entitled, D.O.D. Environment Restoration Program for Department of Defense ...	\$1,391,070
2200-9724	For the purposes of a federally funded grant entitled, Superfund Block Grant .....	\$975,728
2200-9728	For the purposes of a federally funded grant entitled, Brownfields Assessment Program - Multi-Site Cooperative Agreement ....	\$231,390
2200-9729	For the purposes of a Federally funded grant entitled, Brownfield Pilots Cooperative Agreements .....	\$22,314
2200-9731	For the purposes of a federally funded grant entitled, Brownfield Response .....	\$1,570,062
2230-9702	For the purposes of a federally funded grant entitled, Air, Water and Hazardous Waste Management Regulatory Programs ...	\$17,611,753
2230-9709	For the purposes of a federally funded grant entitled, Environmental Information Exchange .....	\$195,494
2230-9710	For the purposes of a federally funded grant entitled, FY07 Network .....	\$186,004

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2240-9762	For the purposes of a federally funded grant entitled, Reimbursement to Operators to Small Water Systems for Training and Certification .....	\$304,404
2240-9764	For the purposes of a federally funded grant entitled, Special Appropriation Set-Aside Administration .....	\$44,365
2240-9769	For the purposes of a federally funded grant entitled, Estuaries Watershed Permitting .....	\$18,915
2240-9773	For the purposes of a federally funded grant entitled, Technical Assistance and Training for Drinking Water .....	\$58,500
2250-9712	For the purposes of a federally funded grant entitled, Clean Air Act-Fine Particulate Matter Air Monitoring .....	\$445,837
2250-9716	For the purposes of a federally funded grant entitled, Ambient Air Toxics Pilot Project .....	\$133,645
2250-9724	For the purposes of a federally funded grant entitled, Mass Food Waste RCC Program .....	\$ 31,649
2250-9725	For the purposes of a federally funded grant entitled, Innovation Environment Compliance Strategies .....	\$55,470
2250-9726	For the purposes of a federally funded grant entitled, Homeland Security Co-op Agreement .....	\$863,645
2250-9727	For the purposes of a federally funded grant entitled, School Bus Retrofit .....	\$20,000
2250-9728	For the purposes of a federally funded grant entitled, Off Road Construction (ORCVRP) .....	\$5,000
2250-9729	For the purposes of a federally funded grant entitled, Composting Recycling .....	\$5,000
2250-9730	For the purposes of a federally funded grant entitled, Air Toxic-Spatial Trends .....	\$49,017

*Department of Fish and Game.*

2300-0112	For the purposes of a federally funded grant entitled, River Restoration Program .....	\$27,133
2300-0114	For the purposes of a federally funded grant entitled, USFWS Partnership Program .....	\$45,000
2310-0115	For the purposes of a federally funded grant entitled, Land Owner Incentive Program – Tier I .....	\$50,000
2310-0116	For the purposes of a federally funded grant entitled, Land Owner Incentive Program – Tier II .....	\$1,000,000
2310-0117	For the purposes of a federally funded grant entitled, Chronic Wasting Disease .....	\$90,000
2310-0118	For the purposes of a federally funded grant entitled, Junior Duck Stamp .....	\$1,300

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2310-0119	For the purposes of a federally funded grant entitled, Avian Influenza Surveillance Program .....	\$8,000
2330-9222	For the purposes of a federally funded grant entitled, Clean Vessel .....	\$850,000
2330-9712	For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics .....	\$145,000
2330-9713	For the purposes of a federally funded grant entitled, Right Whale Conservation .....	\$250,000
2330-9725	For the purposes of a federally funded grant entitled, Boating Infrastructure .....	\$100,000
2330-9730	For the purposes of a federally funded grant entitled, Interstate Fisheries Management Support .....	\$233,000
2330-9732	For the purposes of a federally funded grant entitled, ACCSP Implementation Strategic Plan .....	\$125,000
2330-9736	For the purposes of a federally funded grant entitled, Marine Fisheries Institute .....	\$600,000
2330-9739	For the purposes of a federally funded grant entitled, Turtle Disengagement .....	\$25,000
2330-9740	For the purposes of a federally funded grant entitled, Lobster Gear Removal/Rope Work .....	\$40,000
2330-9741	For the purposes of a federally funded grant entitled, Groundfish Disaster Relief .....	\$13,400,000

*Department of Agricultural Resources.*

2511-0310	For the purposes of a federally funded grant entitled, Pesticide Enforcement .....	\$195,000
2511-0320	For the purposes of a federally funded grant entitled, Certification of Pesticide Applicators .....	\$123,000
2511-0336	For the purposes of a federally funded grant entitled, Special Pesticide Disposal Initiative .....	\$7,240
2511-0400	For the purposes of a federally funded grant entitled, Cooperative Pest Survey Program .....	\$131,168
2511-0401	For the purposes of a federally funded grant entitled, Cooperative Pesticide Recordkeeping Program .....	\$17,500
2511-0972	For the purposes of a federally funded grant entitled, Farmland Protection .....	\$2,650,000
2511-1025	For the purposes of a federally funded grant entitled, Country of Origin Labeling .....	\$13,250
2515-1002	For the purposes of a federally funded grant entitled, Animal Disease Surveillance Homeland Security .....	\$125,030



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2515-1003	For the purposes of a federally funded grant entitled, Voluntary Johne's Disease Control .....	\$44,300
2515-1004	For the purposes of a federally funded grant entitled, Scrapie Disease Surveillance and Flock Certification .....	\$8,300
2515-1005	For the purposes of a federally funded grant entitled, Low Pathogenic Avian Influenza Prevention .....	\$29,350
2515-1006	For the purposes of a federally funded grant entitled, National Animal Identification System .....	\$246,500
2515-1008	For the purposes of a federally funded grant entitled, Highly Pathogenic Avian Influenza .....	\$126,000
2516-9002	For the purposes of a federally funded grant entitled, Development of Institutional Marketing .....	\$108,000
2516-9003	For the purposes of a federally funded grant entitled, Farmer's Market Coupon Program .....	\$438,540
2516-9004	For the purposes of a federally funded grant entitled, Senior Farmers Market Nutrition Program .....	\$57,500
2516-9007	For the purposes of a federally funded grant entitled, Organic Certification Cost-Share Program .....	\$50,000

*Department of Conservation and Recreation.*

2800-9707	For the purposes of a federally funded grant entitled, National Flood Insurance Program .....	\$190,000
2800-9709	For the purposes of a federally funded grant entitled, Map Modernization .....	\$87,000
2800-9721	For the purposes of a federally funded grant entitled, Schooner Ernestina Historical Documentation .....	\$20,000
2800-9726	For the purposes of a federally funded grant entitled, FEMA National Dam Safety Program .....	\$67,907
2800-9727	For the purposes of a federally funded grant entitled, Boston Harbor Islands Projects-National Park Service .....	\$250,000
2800-9750	For the purposes of a federally funded grant entitled, Ipswich River Watershed EPA Grant .....	\$70,200
2820-9702	For the purposes of a federally funded grant entitled, Rural Community Fire Protection .....	\$56,000
2820-9704	For the purposes of a federally funded grant entitled, NRCS Wildlife Habitat Incentives Program .....	\$63,805
2821-9705	For the purposes of a federally funded grant entitled, Urban and Community Forestry Program .....	\$220,087
2821-9709	For the purposes of a federally funded grant entitled, Forestry Stewardship, Forest Legacy and Conservation Education .....	\$3,098,041

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2821-9711	For the purposes of a federally funded grant entitled, Rural Fire Prevention and Control .....	\$228,492
2821-9713	For the purposes of a federally funded grant entitled, Wildland Urban Interface Fuels Management .....	\$293,608
2821-9714	For the purposes of a federally funded grant entitled, Rural Development through Forestry .....	\$26,005
2821-9719	For the purposes of a federally funded grant entitled, Watershed Forest Management – Guidebook .....	\$2,714
2821-9726	For the purposes of a federally funded grant entitled, Forest Health Management - US Forest Service .....	\$103,251
2830-9705	For the purposes of a federally funded grant entitled, SUASCO Watershed Flood Control Reservoir .....	\$7,014
2840-9709	For the purposes of a federally funded grant entitled, Waquoit Bay National Estuarine Research Reserve Consolidated Funding .....	\$624,789
2840-9710	For the purposes of a federally funded grant entitled, NOAA - S. Cape Beach Salt Marsh Restoration .....	\$100,461
2840-9714	For the purposes of a federally funded grant entitled, Waquoit Bay Land Acquisition .....	\$83,837
2840-9715	For the purposes of a federally funded grant entitled, NOAA CECLP Grant .....	\$2,250,000

*Division of Energy Resources.*

7006-9237	For the purposes of a federally funded grant entitled, Rebuild Mass – Energy Smart Communities .....	\$38,821
7006-9238	For the purposes of a federally funded grant entitled, SEP – 4 Natural Gas Buses .....	\$196,843
7006-9239	For the purposes of a federally funded grant entitled, SEP – A Module-Integrated .....	\$190,164
7006-9240	For the purposes of a federally funded grant entitled, Tall Tower Wind .....	\$10,342
7006-9243	For the purposes of a federally funded grant entitled, BIOMASS – Sustainable Forest .....	\$444,127
7006-9244	For the purposes of a federally funded grant entitled, Evaluation of Switchgrass for Biofuel in Massachusetts .....	\$10,000
7006-9301	For the purposes of a federally funded grant entitled, How Cost-Effective energy Efficiency .....	\$164,210
7006-9720	For the purposes of a federally funded grant entitled, State Heating Oil .....	\$22,288
7006-9730	For the purposes of a federally funded grant entitled, SEP II .....	\$753,000

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7006-9757 For the purposes of a federally funded grant entitled,  
BIOMASS ..... \$9,376

**DEPARTMENT OF EARLY EDUCATION AND CARE.**  
*Department of Early Education and Care.*

3000-0708 For the purposes of a federally funded grant entitled, Head Start  
Collaboration ..... \$175,000  
3000-9002 For the purposes of a federally funded grant entitled, Child Abuse  
Prevention and Treatment Activities ..... \$565,398

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

4000-0713 For the purposes of a federally funded grant entitled, Youth  
Development State Collaboration ..... \$120,000  
4000-7570 For the purposes of a federally funded grant entitled, Medicaid  
Transformation ..... \$814,370  
4000-9401 For the purposes of a federally funded grant entitled, Community  
Mental Health Services ..... \$8,086,241  
4000-7560 For the purposes of a federally funded grant entitled, Emergency  
Room Diversion ..... \$2,312,076

*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 ..... \$200,000  
4110-3021 For the purposes of a federally funded grant entitled, Basic  
Support Grant ..... \$7,601,991  
4110-3023 For the purposes of a federally funded grant entitled, Independent  
Living — Adaptive Housing ..... \$95,000  
4110-3026 For the purposes of a federally funded grant entitled, Independent  
Living — Services to Older Blind Americans ..... \$737,346  
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 ..... \$150,000

*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 . . . . .	\$44,143,937
4120-0030	For the purposes of a federally funded grant entitled, Workforce Coordinating Grant Trust . . . . .	\$43,000
4120-0040	For the purposes of a federally funded grant entitled, Vocational Rehabilitation and Comprehensive Systems of personnel development Training . . . . .	\$110,887
4120-0608	For the purposes of a federally funded grant for improving systems of care for OEF/OIF veterans with traumatic brain injury . . . . .	\$118,600
4120-0187	For the purposes of a federally funded grant entitled, Supported Employment Program . . . . .	\$474,283
4120-0191	For the purposes of a federally funded grant entitled, Informed Members Planning and Assessing Choices Together (IMPACT) . . . . .	\$163,785
4120-0511	For the purposes of a federally funded grant entitled, Vocational Rehabilitation - Determination of Disability . . . . .	\$38,556,149
4120-0760	For the purposes of a federally funded grant entitled, Independent Living . . . . .	\$1,600,000
4120-0767	For the purposes of a federally funded grant entitled, Assistive Technology . . . . .	\$375,000
4120-0768	For the purposes of a federally funded grant entitled, Assistive Technology Act . . . . .	\$905,228

*Department of Transitional Assistance.*

4400-0705	For the purposes of a federally funded grant entitled, Emergency Shelter Grants . . . . .	\$2,900,000
4400-0707	For the purposes of a federally funded grant entitled, Continuum of Care . . . . .	\$6,000,000
4400-3066	For the purposes of a federally funded grant entitled, Training for Food Stamp ABAWDs . . . . .	\$1,600,000
4400-3067	For the purposes of a federally funded grant entitled, Food Stamp Employment and Training . . . . .	\$2,100,000
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 . . . . .	\$3,400,000

*Department of Social Services.*

4800-0005	For the purposes of a federally funded grant entitled, Children's Justice Act . . . . .	\$360,785
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4800-0007	For the purposes of a federally funded grant entitled, The Family Violence Prevention and Support Services Act .....	\$1,788,225
4800-0009	For the purposes of a federally funded grant entitled, Title IV-E Independent Living .....	\$3,185,238
4800-0013	For the purposes of a federally funded grant entitled, Family Preservation and Support Services .....	\$5,063,546
4800-0085	For the purposes of a federally funded grant entitled, Educational & Training Voucher Program .....	\$1,095,236
4800-0086	For the purposes of a federally funded grant entitled, Adoption Opportunities Grant .....	\$350,000
4800-0088	For the purposes of a federally funded grant entitled, Training of Child Welfare Agency Supervisors .....	\$249,722
4800-0089	For the purposes of a federally funded grant entitled, Adoption Incentive Payments .....	\$258,000
4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services .....	\$4,094,353
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment .....	\$522,943

*Department of Public Health.*

4500-1000	For the purposes of a federally funded grant entitled, Preventive Health Services Block Grant .....	\$3,170,463
4500-1050	For the purposes of a federally funded grant entitled, Rape Prevention and Education .....	\$989,283
4510-1060	For the purposes of a federally funded grant entitled, Rape Prevention Program Planning and Evaluation Capacity Building .....	\$16,532
4500-1065	For the purposes of a federally funded grant entitled State Partnership to Improve Minority Health .....	\$154,867
4500-2000	For the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant .....	\$12,097,344
4502-1012	For the purposes of a federally funded grant entitled, Cooperative Health Statistics System .....	\$614,398
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 .....	\$148,500
4510-0118	For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement .....	\$108,954
4510-0119	For the purposes of a federally funded grant entitled, Rural Hospital Flexibility Program .....	\$297,900

4510-0219	For the purposes of a federally funded grant entitled, Small Rural Hospital Improvement Program . . . . .	\$89,450
4510-0221	For the purposes of a federally funded grant entitled, Targeted Oral Health Services . . . . .	\$160,000
4510-0400	For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification . . . . .	\$7,637,790
4510-0404	For the purposes of a federally funded grant entitled, Bioterrorism Hospital Preparedness . . . . .	\$9,983,770
4510-0500	For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement . . . . .	\$312,536
4510-0609	For the purposes of a federally funded grant entitled, NRC Security Inspections . . . . .	\$5,000
4510-0619	For the purposes of a federally funded grant entitled, FDA Inspection of Food Establishments . . . . .	\$322,736
4510-0627	For the purposes of a federally funded grant entitled, Enhancement of Infrastructure Reporting and Interstate Exchange . . . . .	\$275,000
4510-0628	For the purposes of a federally funded grant entitled, Enhancement of Infrastructure Collaborative Data Sharing . . . . .	\$400,000
4510-0630	For the purposes of a federally funded grant entitled, Enabling Electronic Prescribing and Enhancement . . . . .	\$425,710
4510-0636	For the purposes of a federally funded grant entitled, Childhood Lead Paint Poisoning Prevention . . . . .	\$1,145,179
4510-0793	For the purposes of a federally funded grant entitled, RURAL Automatic External Defibrillator . . . . .	\$22,532
4510-9014	For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections . . . . .	\$152,854
4510-9040	For the purposes of a federally funded grant entitled, Diabetes Control Program . . . . .	\$1,070,134
4510-9043	For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Health Impact Assessments . . . . .	\$448,648
4510-9048	For the purposes of a federally funded grant entitled, Indoor Radon Development Program . . . . .	\$159,330
4510-9053	For the purposes of a federally funded grant entitled, Beaches Environmental Assessment . . . . .	\$251,749
4510-9056	For the purposes of a federally funded grant entitled, National Environmental Public Health Tracking . . . . .	\$949,213
4512-0102	For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control . . . . .	\$1,588,813
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project . . . . .	\$5,821,257



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4512-0180	For the purposes of a federally funded grant entitled, Epidemiology and Lab Surveillance .....	\$1,491,209
4512-9064	For the purposes of a federally funded grant entitled, Adolescent Treatment .....	\$365,780
4512-9065	For the purposes of a federally funded grant entitled, State Outcomes Measurement and Management System .....	\$75,000
4512-9066	For the purposes of a federally funded grant entitled, State Epidemiological Outcomes Workshop .....	\$100,000
4512-9067	For the purposes of a federally funded grant entitled, Screening and Brief Intervention .....	\$2,826,914
4512-9068	For the purposes of a federally funded grant entitled, Collaborative for Action, Leadership, and Learning .....	\$2,093,000
4512-9069	For the purposes of a federally funded grant entitled, Substance Abuse Prevention and Treatment Block Grant .....	\$35,754,518
4512-9070	For the purposes of a federally funded grant entitled, Promoting Safe and Stable Families .....	\$500,000
4512-9071	For the purposes of a federally funded grant entitled, OJJDP Substance Abuse Prevention .....	\$700,000
4512-9086	For the purposes of a federally funded grant entitled, Oral Health Workforce Activities Support Grant .....	\$131,834
4512-9426	For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection .....	\$73,198
4513-0111	For the purposes of a federally funded grant entitled, Housing Opportunities-People with AIDS .....	\$166,000
4513-1123	For the purposes of a federally funded grant entitled, Adult Viral Hepatitis Prevention Coordinator .....	\$105,925
4513-9007	For the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants, and Children (WIC) .....	\$89,471,755
4513-9018	For the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education - Risk Reduction .....	\$11,092,885
4513-9020	For the purposes of a federally funded grant entitled, Expanded and Integrated HIV Testing .....	\$690,000
4513-9021	For the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps .....	\$8,214,170
4513-9022	For the purposes of a federally funded grant entitled, Prevention Disability State Based Project .....	\$200,552
4513-9027	For the purposes of a federally funded grant entitled, MassCare - Community AIDS Resource Enhancement .....	\$888,693

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4513-9030	For the purposes of a federally funded grant entitled, Planning a Comprehensive Primary Care System for All Mass Children and Youth .....	\$94,644
4513-9035	For the purposes of a federally funded grant entitled, AIDS Surveillance and Seroprevalence Project .....	\$1,502,762
4513-9037	For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources .....	\$20,393,618
4513-9038	For the purposes of a federally funded grant entitled, Shelter Plus Care – Worcester .....	\$288,504
4513-9046	For the purposes of a federally funded grant entitled, Congenital Anomalies Center of Excellence .....	\$697,633
4513-9051	For the purposes of a federally funded grant entitled, Rural Domestic Violence and Children Victimization Project .....	\$450,000
4513-9060	For the purposes of a federally funded grant entitled, Residential Fire Injury Prevention — Mass Injury Intervention and Surveillance .....	\$145,000
4513-9066	For the purposes of a federally funded grant entitled, Universal Newborn Hearing Screening-Enhancement Project .....	\$175,000
4513-9071	For the purposes of a federally funded grant entitled, Early Hearing Detection and Intervention (EHDI) Tracking and Research .....	\$170,000
4513-9076	For the purposes of a federally funded grant entitled, Early Childhood Comprehensive Systems .....	\$140,000
4513-9077	For the purposes of a federally funded grant entitled, Emergency Medical Services for Children Partnership II .....	\$115,000
4513-9078	For the purposes of a federally funded grant entitled, Asthma Planning Collaborative .....	\$335,000
4513-9080	For the purposes of a federally funded grant entitled, Mass. Perinatal Connection Project .....	\$210,000
4513-9081	For the purpose of a federally funded grant entitled, State Implementation Grant for Children with Special Health Care Needs .....	\$50,000
4513-9082	For the purpose of a federally funded grant entitled, CAPTA Requirement to Identify and Serve Substance Exposed Newborns .....	\$250,000
4513-9083	For the purposes of a federally funded grant entitled, Massachusetts Youth Suicide Prevention Program .....	\$455,704
4513-9085	For the purposes of a federally funded grant entitled, Massachusetts Pregnancy Risk .....	\$198,026
4514-1005	For the purposes of a federally funded grant entitled, WIC-Management Information Systems .....	\$200,000

4514-1006	For the purposes of a federally funded grant entitled, Getting to the Heard of the Matter .....	\$94,990
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project .....	\$1,641,161
4515-0121	For the purposes of a federally funded grant entitled, Tuberculosis Epidemiological Studies and Consortium .....	\$366,019
4515-0200	For the purposes of a federally funded grant entitled, STD/HIV Prevention Training Centers .....	\$356,641
4515-0204	For the purposes of a federally funded grant entitled, Strengthening Surveillance for Infectious Disease .....	\$175,000
4515-0205	For the purposes of a federally funded grant entitled, HIV Training through Prevention Training Centers .....	\$99,999
4516-1021	For the purposes of a federally funded grant entitled, Public Health Preparedness and Response for Bioterrorism .....	\$17,273,541
4516-1025	For the purposes of a federally funded grant entitled, Morbidity and Risk Behavior Surveillance .....	\$378,620
4518-0505	For the purposes of a federally funded grant entitled, Tech Data & Mass Birth/Infant Death File Linkage/Analysis Assistive Reproductive .....	\$24,885
4518-0514	For the purposes of a federally funded grant entitled, National Violent Death Reporting System .....	\$321,368
4518-0534	For the purposes of a federally funded grant entitled, Public Health Injury Surveillance and Prevention .....	\$742,877
4518-1000	For the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index .....	\$33,500
4518-1002	For the purposes of a federally funded grant entitled, Massachusetts Death File - Social Security Administration .....	\$83,000
4518-1003	For the purposes of a federally funded grant entitled, Massachusetts Birth Records - Social Security Administration .....	\$281,351
4518-1004	For the purposes of a federally funded grant entitled, Promoting Integration of State Health Information Systems .....	\$199,897
4518-9023	For the purposes of a federally funded grant entitled, Census of Fatal Occupational Injuries .....	\$44,200
4518-9030	For the purpose of a federally funded grant entitled, Public Health Injury Surveillance and Prevention Program .....	\$159,660
4570-1509	For the purposes of a federally funded grant entitled, Massachusetts Cardiovascular Disease Prevention .....	\$1,144,341
4570-1512	For the purposes of a federally funded grant entitled, National Cancer Prevention Control .....	\$5,341,046
4570-1515	For the purposes of a federally funded grant entitled, Chronic Diseases Prevention and Health Promotion .....	\$4,363,523



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4570-1516 For the purposes of a federally funded grant entitled, Paul Coverdell Acute Stroke Registry ..... \$600,000

*Department of Mental Health.*

5012-9121 For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness ..... \$1,800,000

5012-9157 For the purposes of a federally funded grant entitled, Alternatives to Restraint and Seclusion ..... \$72,000

5012-9158 For the purposes of a federally funded grant entitled, State Mental Health Data Infrastructure ..... \$15,000

5014-9159 For the purposes of a federally funded grant entitled, State Mental Health Data Infrastructure ..... \$142,220

5046-9102 For the purposes of a federally funded grant entitled, Shelter Plus Care Program ..... \$176,000

5047-9102 For the purposes of a federally funded grant entitled, Comprehensive Mental Health Services for Children and their Families ..... \$1,500,000

**EXECUTIVE OFFICE OF TRANSPORTATION.**

*Office of the Secretary.*

6000-0018 For the purposes of a federally funded grant entitled, Rural Public Transportation Assistance ..... \$4,198,030

6000-0019 For the purposes of a federally funded grant entitled, Section 5307 Transportation Demand Management ..... \$1,058,000

6000-0020 For the purposes of a federally funded grant entitled, Jobs Access Reverse Commute ..... \$2,435,412

6000-0022 For the purposes of a federally funded grant entitled, Transit Planning Research Grant ..... \$46,844

6000-0023 For the purposes of a federally funded grant entitled, Rural Public Transportation Planning Grant ..... \$3,895,602

6000-0025 For the purposes of a federally funded grant entitled, High Priority Project ..... \$5,711,795

6000-0049 For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation Capital Grant ..... \$4,759,427

*Registry of Motor Vehicles.*

8400-0090 For the purposes of a federally funded grant entitled, Enhance CDL Licensing ..... \$621,567

8400-0093 For the purposes of Data Quality Program, MCSAP ..... \$188,000

*Board of Library Commissioners.*

7000-9700 For the purposes of a federally funded grant entitled, Federal Reserve - Title I .....	\$169,280
7000-9702 For the purposes of a federally funded grant entitled, Library Service Technology Act .....	\$3,446,669

**EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT.**

7002-1625 For the purposes of a federally funded grant entitled, Veterans Workforce Investment Program FY09 .....	\$750,000
7002-4203 For the purposes of a federally funded grant entitled, Occupational Substance and Health Administration Statistical Survey .....	\$106,423
7002-4204 For the purposes of a federally funded grant entitled, Adult Blood Lead Levels Surveillance .....	\$20,567
7002-4212 For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring .....	\$102,250
7002-4213 For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring .....	\$347,948
7002-4215 For the purposes of a federally funded grant entitled, Occupational Illness and Injury .....	\$89,004
7002-4216 For the purposes of a federally funded grant entitled, Lead Enforcement Cooperative Agreement .....	\$59,703
7002-6624 For the purposes of a federally funded grant entitled, Unemployment Insurance Administration .....	\$69,157,578
7002-6626 For the purposes of a federally funded grant entitled, Employment Service Programs Administration .....	\$21,876,683
7002-6627 For the purposes of a federally funded grant entitled, Occupational Substance and Health Administration On-site Consultation Program .....	\$1,521,207
7002-6628 For the purposes of a federally funded grant entitled, Disabled Veterans Outreach .....	\$1,424,669
7002-6629 For the purposes of a federally funded grant entitled, Local Veterans Employment Representative .....	\$1,586,217
7002-9701 For the purposes of a federally funded grant entitled, Federal Bureau of Labor Statistics Grant .....	\$2,495,562
7003-1010 For the purposes of a federally funded grant entitled, Trade Expansion Act Program .....	\$9,761,375
7003-1630 For the purposes of a federally funded grant entitled, Adult Activities - Workforce Investment Act Title I - Adult Activities .....	\$17,837,849

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7003-1631	For the purposes of a federally funded grant entitled, Youth Formula Grants – Workforce Investment Act Title I - Youth Formula Grants .....	\$24,425,390
7003-1632	For the purposes of a federally funded grant entitled, Dislocated Workers – Workforce Investment Act Title I –Dislocated Workers .....	\$57,789,750
7003-1633	For the purposes of a federally funded grant entitled, Work Incentive Grant Access to Employment for All .....	\$1,868,081
7003-1635	For the purposes of a federally funded grant entitled, Partnership for Youth in Employment .....	\$2,128,734
7003-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training .....	\$61,195

**EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT.**

*Department of Housing and Community Development.*

7004-0304	For the purposes of a federally funded grant entitled, Lead-Based Paint Control Program .....	\$257,852
7004-2030	For the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$6,517,898
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 .....	\$93,972,799
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 .....	\$16,944,356
7004-2361	For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Administrative Fee .....	\$246,000
7004-2363	For the purposes of a federally funded grant entitled, Section 8 Administrative Fee Housing Voucher .....	\$2,047,000



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7004-2364	For the purposes of a federally funded grant entitled, Section 8 Administrative Fee Moderate Rehabilitation . . . . .	\$260,000
7004-2365	For the purposes of a federally funded grant entitled, Section 8 Administrative Fee New Construction . . . . .	\$630,000
7004-3037	For the purposes of a federally funded grant entitled, Small Cities Community Development Block Grant Program; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies . . . . .	\$43,243,680
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 . . . . .	\$9,400,000
7004-9014	For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies . . . . .	\$216,000,000
7004-9019	For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies . . . . .	\$8,700,000
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 . . . . .	\$7,700,000
7004-9028	For the purposes of a federally funded grant entitled, Home Investment Partnerships; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies . . . . .	\$14,975,000
7004-9039	For the purposes of a federally funded grant entitled, HOME Technical Assistance . . . . .	\$13,586,515
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 . . . . .	\$25,000

*Department of Elementary and Secondary Education.*

7010-9706	For the purposes of a federally funded grant entitled, Common Core Data Project .....	\$125,000
7032-0217	For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program — Distribution .....	\$784,500
7032-0228	For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program .....	\$1,019,784
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy — Distribution .....	\$1,008,718
7035-0210	For the purposes of a federally funded grant entitled, Advanced Placement Fee Program .....	\$155,000
7038-0107	For the purposes of a federally funded grant entitled, Adult Basic Education – Distribution .....	\$8,425,316
7038-9004	For the purposes of a federally funded grant entitled, School Based Programs Distribution .....	\$340,000
7043-1001	For the purposes of a federally funded grant entitled, Title I Grants to Local Educational Agencies .....	\$234,021,217
7043-1002	For the purposes of a federally funded grant entitled, Title I Reading First State Grants .....	\$8,137,510
7043-1004	For the purposes of a federally funded grant entitled, Migrant Education .....	\$1,595,370
7043-1005	For the purposes of a federally funded grant entitled, Title I Neglected and Delinquent Children .....	\$1,948,006
7043-2001	For the purposes of a federally funded grant entitled, Teacher and Principal Training and Recruiting .....	\$51,804,753
7043-2002	For the purposes of a federally funded grant entitled, Title II State and Local Technology Grants .....	\$4,271,054
7043-2003	For the purposes of a federally funded grant entitled, Title I Math and Science Partnerships .....	\$2,362,518
7043-3001	For the purposes of a federally funded grant entitled, English Language Acquisition .....	\$11,645,852
7043-4001	For the purposes of a federally funded grant entitled, Safe and Drug Free Schools and Communities .....	\$5,402,940
7043-4002	For the purposes of a federally funded grant entitled, After School Learning Centers .....	\$17,002,191
7043-6001	For the purposes of a federally funded grant entitled, Grants for State Assessments and Related Activities .....	\$7,708,240
7043-6002	For the purposes of a federally funded grant entitled, Rural And Low-Income Schools .....	\$123,829

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7043-6501	For the purposes of a federally funded grant entitled, Education for Homeless Children/Youth .....	\$1,065,391
7043-7001	For the purposes of a federally funded grant entitled, Special Education Grants .....	\$269,786,890
7043-7002	For the purposes of a federally funded grant entitled, Preschool Grants .....	\$9,735,466
7043-8001	For the purposes of a federally funded grant entitled, Vocational Education Basic Grants .....	\$18,583,628
7043-8002	For the purposes of a federally funded grant entitled, Technical Preparation Education .....	\$1,648,212
7044-0020	For the purposes of a federally funded grant entitled, New Project Focus .....	\$1,130,000
7044-0725	For the purposes of a federally funded grant entitled, Title X Homeless Children and Youth .....	\$940,502
7044-0210	For the purposes of a federally funded grant entitled, Advanced Placement Fee Program .....	\$150,000
7044-0250	For the purposes of a federally funded grant entitled, Mass Partnership for Gifted Education .....	\$125,000
7047-1218	For the purposes of a federally funded grant entitled, Stepping Stones of Technology Innovation .....	\$197,617
7047-9008	For the purposes of a federally funded grant entitled, Learn and Serve America Competitive .....	\$750,000
7053-2112	For the purposes of a federally funded grant entitled, Special Assistance Funds .....	\$85,250,000
7053-2117	For the purposes of a federally funded grant entitled, Child Care Program .....	\$24,950,000
7053-2126	For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance .....	\$925,000
7053-2202	For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children .....	\$72,350
7053-2266	For the purposes of a federally funded grant entitled, Mass Team Nutrition Grant .....	\$145,000
7062-0008	For the purposes of a federally funded grant entitled, Office of School Lunch Programs — Child Care Program Administration .....	\$2,650,000
7062-0017	For the purposes of a federally funded grant entitled, Charter Schools Assistance Distribution .....	\$3,381,252
7062-0019	For the purposes of a federally funded grant entitled, Career Resource Network State Grant .....	\$70,000



*Department of Higher Education.*

7066-1574	For the purposes of a federally funded grant entitled, Improving Teacher Quality Grants .....	\$1,533,634
7066-6033	For the purposes of a federally funded grant entitled, Gaining Early Awareness and Readiness for Undergraduate Programs .....	\$3,730,176
7070-0017	For the purposes of a federally funded grant entitled, Leveraging Educational Assistance Program— Department of Higher Education .....	\$966,753
7110-6019	For the purposes of a federally funded grant entitled, Upward Bound Payroll and Benefits— Fitchburg State College .....	\$253,000
7110-6030	For the purposes of a federally funded grant entitled, Expanding Horizons Student Support Services — Fitchburg State College .....	\$235,000
7110-6048	For the purposes of a federally funded grant entitled, Special Education Personnel Preparation— Fitchburg State College ...	\$200,000
7116-6224	For the purposes of a federally funded grant entitled, Central Massachusetts Writing Project .....	\$8,000
7410-3093	For the purposes of a federally funded grant entitled, Polymer Building Construction — University of Massachusetts Amherst .....	\$1,750,000
7503-6557	For the purposes of a federally funded grant entitled, Trio Talent Search – Bristol Community College .....	\$168,418
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students — Bristol Community College .....	\$449,875
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program — Bristol Community College .....	\$335,370
7509-1490	For the purposes of a federally funded grant entitled, Educational Opportunities Centers Payroll — Mount Wachusett Community College .....	\$173,000
7509-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students — Mount Wachusett Community College .....	\$285,000
7509-9718	For the purposes of a federally funded grant entitled, Talent Search — Mount Wachusett Community College .....	\$248,000
7509-9720	For the purposes of a federally funded grant entitled, Gaining Early Awareness and Readiness for Undergraduate Programs 2011 — Mount Wachusett Community College .....	\$515,000

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7509-9721	For the purposes of a federally funded grant entitled, Upward Bound Math and Science Program – Mount Wachusett Community College .....	\$260,000
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students — North Shore Community College .....	\$455,000
7511-9713	For the purposes of a federally funded grant entitled, IAP —Strengthening Institutions Program— North Shore Community College .....	\$400,000
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound — North Shore Community College .....	\$370,000
7511-9750	For the purposes of a federally funded grant entitled, Talent Search— North Shore Community College .....	\$220,000
7518-6127	For the purposes of a federally funded grant entitled, College Work Study Program— Bunker Hill Community College .....	\$205,000

**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 .....	\$150,000
8000-4603	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act .....	\$1,200,000
8000-4608	For the purposes of a federally funded grant entitled, Drug-Free Schools and Communities Act of 1986 .....	\$1,200,000
8000-4609	For the purposes of a federally funded grant entitled, Narcotics Control Assistance .....	\$866,000
8000-4610	For the purposes of a federally funded grant entitled, Statistical Analysis Center .....	\$60,000
8000-4611	For the purposes of a federally funded grant entitled, Byrne Justice Assistance .....	\$4,000,000
8000-4613	For the purposes of a federally funded grant entitled, Project Safe Neighborhood Anti-Gang Initiative .....	\$500,000
8000-4614	For the purposes of a federally funded grant entitled, Encourage Arrests Violence to Women .....	\$1,000,000
8000-4619	For the purposes of a federally funded grant entitled, Title V .....	\$75,000
8000-4620	For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program .....	\$2,000,000
8000-4623	For the purposes of a federally funded grant entitled, Criminal History Improvement .....	\$50,000

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8000-4624	For the purposes of a federally funded grant entitled, Prisoner Substance Abuse Treatment .....	\$100,000
8000-4692	For the purposes of a federally funded grant entitled, State Homeland Security Program .....	\$45,000,000
8000-4693	For the purposes of a federally funded grant entitled, Project Safe Neighborhood .....	\$700,000
8000-4695	For the purposes of a federally funded grant entitled, Homeland Security Buffer Zone Protection .....	\$2,000,000
8000-4696	For the purposes of a federally funded grant entitled, Transportation Security Grant .....	\$12,000,000
8000-4697	For the purposes of a federally funded grant entitled, Homeland Security Interoperable Communication .....	\$8,000,000
8000-4698	For the purposes of a federally funded grant entitled, Highway Safety Initiatives .....	\$3,000,000
8000-4804	For the purposes of a federally funded grant entitled, State Agency Programs .....	\$12,000,000
8000-4839	For the purposes of a federally funded grant entitled, Enforcing Underage Drinking Law IV .....	\$125,000
8000-4840	For the purposes of a federally funded grant entitled, 2006 Enforcing Underage Drinking Laws .....	\$350,000
8000-4841	For the purposes of a federally funded grant entitled, Fatality Analysis Reporting .....	\$150,000
8000-6613	For the purposes of a federally funded grant entitled, Juvenile Accountability II .....	\$775,200

*Department of State Police.*

8100-0200	For the purposes of a federally funded grant entitled, Motor Vehicle Data Quality .....	\$405,196
8100-0209	For the purposes of a federally funded grant entitled, Region 1 Training Academy Motor Carrier Safety Assistance .....	\$150,500
8100-0210	For the purposes of a federally funded grant entitled, MCSAP-CVE New Entrant Audit .....	\$630,213
8100-0217	For the purposes of a federally funded grant entitled, Federal Motor Carrier Safety Assistance .....	\$2,466,476
8100-0218	For the purposes of a federally funded grant entitled, Federal Motor Carrier Safety FY09 .....	\$1,758,595
8100-2058	For the purposes of a federally funded grant entitled, New England State Police Administrator's Conference—Regional Investigation .....	\$703,335
8100-2638	For the purposes of a federally funded grant entitled, Internet Crimes Against Children .....	\$250,000



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8100-9706	For the purposes of a federally funded grant entitled, Cannabis Eradication Controlled Substance Prosecution DEA Cooperative Agreement .....	\$39,680
8100-9730	For the purposes of a federally funded grant entitled, Forensic Casework DNA Backlog FFY05 .....	\$127,332
8100-9733	For the purposes of a federally funded grant entitled, Forensic Casework DNA Backlog .....	\$267,342
8100-9735	For the purposes of a federally funded grant entitled, Paul Coverdell National Forensic Science Improvement Act FY09 .....	\$55,200
8100-9736	For the purposes of a federally funded grant entitled, Forensic Casework DNA Backlog .....	\$140,000
8100-9738	For the purposes of a federally funded grant entitled, Operation Clean Sweep Byrne FY09 .....	\$440,481
8100-9739	For the purposes of a federally funded grant entitled, Statewide Firearms Intelligence Byrne .....	\$220,630

*Department of Fire Services.*

8324-1505	For the purposes of a federally funded grant entitled, USFA/NFA State Fire Training Program .....	\$28,000
8324-9707	For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program .....	\$236,329

*Military Division.*

8700-0006	For the purposes of a federally funded grant entitled, Military Construction Costs in Methuen .....	\$21,301,000
8700-0143	For the purposes of an expendable trust entitled, Friends of Massachusetts National Guard and Reserve Families .....	\$585,586
8700-0302	For the purposes of a federally funded grant entitled, Military Construction Costs in Reading .....	\$831,499

*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 .....	\$987,679
8800-0064	For the purposes of a federally funded grant entitled, Hazard Mitigation 1364 .....	\$470,105
8800-0080	For the purposes of a federally funded grant entitled, Local Emergency Plan Assistance .....	\$22,656

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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 .....	\$4,386,097
8800-1512	For the purposes of a federally funded grant entitled, Hazard Mitigation Program, HMPG for FEMA-DR1512 .....	\$180,667

*Department of Correction.*

8903-9709	For the purposes of a federally funded grant entitled, Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders .....	\$128,799
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**EXECUTIVE OFFICE OF ELDER AFFAIRS.**

*Office of the Secretary.*

9110-1074	For the purposes of a federally funded grant entitled, Older Americans Assistance, Title III and Title VII .....	\$9,122,198
9110-1077	For the purposes of a federally funded grant entitled, Older Americans Act, Title III-E, National Family Caregiver Support Program .....	\$3,673,479
9110-1095	For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance .....	\$676,386
9110-1150	For the purposes of a federally funded grant entitled, Empowering Older People .....	\$300,000
9110-1173	For the purposes of a federally funded grant entitled, Older Americans Act – Title III Nutritional Program .....	\$13,936,717
9110-1174	For the purposes of a federally funded grant entitled, Nutrition Services Incentive Program .....	\$4,056,178
9110-1178	For the purposes of a federally funded grant entitled, Community Service Employment Program .....	\$1,881,501
9110-1179	For the purposes of a federally funded grant entitled, Performance Outcome Measures Project .....	\$30,000
9110-2760	For the purposes of a federally funded grant entitled, New England Massachusetts Aging and Disability Resource Center ....	\$350,000
9110-2761	For the purposes of a federally funded grant entitled, Aging and Disability Resource Center- Center for Medicaid and Medicare Services .....	\$6,500

*Office for Refugees and Immigrants.*

4003-0801	For the purposes of a federally funded grant entitled, Achieving Self-Sufficiency in a Short Time .....	\$335,000
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4003-0803	For the purposes of a federally funded grant entitled, Refugee School Impact .....	\$287,500
4003-0804	For the purposes of a federally funded grant entitled, refugee Targeted Assistance Grant .....	\$1,156,746
4003-0805	For the purposes of a federally funded grant entitled, refugee Resettlement Program .....	\$1,613,552
4003-0806	For the purposes of a federally funded grant entitled, Refugee Cash, Medical, and Administration .....	\$7,772,792
4003-0809	For the purposes of a federally funded grant entitled, Refugees Effectively Accessing Connections with Hope (REACH) .....	\$200,000
4003-0810	For the purposes of a federally funded grant entitled, Refugee Agriculture Partnership Program (RAPP) .....	\$93,518

**SECTION 3.** Notwithstanding any general or special law to the contrary, for the fiscal year ending June 30, 2009 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 \$810,875,000 and shall be apportioned to the cities and towns in accordance with this section.

Notwithstanding any general or special law to the contrary, the total amounts to be distributed and paid to each city and town from the General Fund, shall be \$124,153,283 and shall be apportioned to the cities and towns in accordance with this section; provided further, that said payments shall be considered part of the distribution to cities and towns of the balance of the State Lottery Fund for the purpose of the definition of "General revenue sharing aid" in section 2 of chapter 70 of the General Laws.

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.

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 2009 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 chapter 70 of the General Laws.

For fiscal year 2009, the foundation budget categories for each district shall be calculated in the same manner as in fiscal year 2008. The target local share shall be calculated using the same methodology used in fiscal year 2008. Preliminary local contribution shall be the municipality's fiscal year 2008 minimum required local contribution, increased or decreased by the municipal revenue growth factor; provided, that



if a municipality's preliminary contribution as a percentage of foundation is more than 5 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 1 percentage point; provided further, that if a municipality's preliminary contribution as a percentage of foundation is more than 10 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 2 percentage points. Required local contributions shall be calculated using the same methodology used in fiscal year 2008; provided, that in any municipality with a preliminary contribution higher than its target local contribution, required local contribution shall be the preliminary local contribution reduced by 33 per cent of the gap between the preliminary local contribution and the target local contribution. Required local contribution shall be allocated among the districts to which a municipality belongs in direct proportion to the foundation budgets for the municipality's pupils at each of those districts.

For fiscal year 2009, the "foundation aid increment" shall be the difference between: (a) the positive difference between a district's foundation budget and its required district contribution; and (b) prior year aid. The "down payment aid increment" shall be 33 per cent of the positive difference between 100 per cent of a district's target aid share and its prior year chapter 70 aid, minus the foundation aid increment; provided, that the target aid share shall be calculated in the same way as in fiscal year 2008 using updated income, equalized valuation and foundation budget data. The minimum target aid share shall be 17.5 per cent. The "growth aid increment" shall be equal to (a) the product of the target aid percentage multiplied by the difference between the current and prior year foundation budget minus (b) the foundation aid increment and down payment aid increment. The "minimum aid increment" shall be equal to (a) \$50 multiplied by the district's foundation enrollment minus (b) the sum of the foundation aid increment, down payment aid increment and growth aid increment. In no case shall the foundation aid increment, down-payment aid increment, growth aid increment, or minimum aid increment be less than zero.

Chapter 70 aid for fiscal year 2009 shall be the sum of prior year aid plus the foundation aid increment plus the down payment aid increment, if any, plus the growth increment, if any, plus the minimum aid increment, if any. 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 of education 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.

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

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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 Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
ABINGTON	7,808,577	0	2,123,221	325,087	2,448,308
ACTON	5,228,141	29,696	1,484,039	227,222	1,711,261
ACUSHNET	6,510,503	23,875	1,615,787	247,394	1,863,181
ADAMS	9,141	35,042	2,148,435	328,947	2,477,382
AGAWAM	16,486,547	0	3,976,245	608,804	4,585,049
ALFORD	0	0	14,564	2,230	16,794
AMESBURY	9,079,191	0	2,099,746	321,493	2,421,239
AMHERST	6,266,707	222,910	8,513,025	1,303,431	9,816,456
ANDOVER	7,467,975	0	1,928,601	295,289	2,223,890
AQUINNAH	0	0	2,521	386	2,907
ARLINGTON	6,229,294	4,491,775	4,293,083	657,315	4,950,398
ASHBURNHAM	0	0	755,093	115,613	870,706
ASHBY	0	0	411,706	63,036	474,742
ASHFIELD	99,291	0	200,377	30,680	231,057
ASHLAND	4,593,982	291,598	1,206,702	184,758	1,391,460
ATHOL	0	4,377	2,464,613	377,358	2,841,971
ATTLEBORO	30,251,302	0	6,157,435	942,766	7,100,201
AUBURN	5,807,803	0	1,848,442	283,015	2,131,457
AVON	880,355	400,636	400,636	61,342	461,978
AYER	4,253,186	44,218	778,730	119,232	897,962
BARNSTABLE	7,744,649	0	2,270,301	347,606	2,617,907
BARRE	17,858	0	877,692	134,384	1,012,076
BECKET	81,381	8,580	90,577	13,868	104,445
BEDFORD	3,025,145	484,271	819,014	125,400	944,414
BELCHERTOWN	13,164,100	0	1,836,460	281,181	2,117,641
BELLINGHAM	8,560,993	0	1,831,429	280,411	2,111,840
BELMONT	4,603,815	827,483	1,719,422	263,261	1,982,683
BERKLEY	5,537,165	0	656,712	100,549	757,261
BERLIN	539,078	0	217,605	33,318	250,923
BERNARDSTON	0	0	306,124	46,871	352,995

Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid	General	Total Lottery
			Funded Through Lottery Revenues	Fund Supplement to Hold Harmless Lottery Aid	
BEVERLY	7,254,770	2,452,442	4,176,202	639,419	4,815,621
BILLERICA	17,465,958	2,349,321	4,247,616	650,354	4,897,970
BLACKSTONE	127,344	0	1,291,572	197,753	1,489,325
BLANDFORD	45,414	0	136,166	20,849	157,015
BOLTON	5,769	0	213,098	32,628	245,726
BOSTON	221,422,839	164,211,152	62,079,987	9,505,083	71,585,070
BOURNE	5,049,097	352,555	1,276,459	195,439	1,471,898
BOXBOROUGH	1,394,863	0	272,260	41,686	313,946
BOXFORD	1,653,884	36,411	493,108	75,500	568,608
BOYLSTON	460,908	0	369,704	56,605	426,309
BRAINTREE	9,517,288	3,378,041	3,246,720	497,106	3,743,826
BREWSTER	957,078	0	426,164	65,250	491,414
BRIDGEWATER	85,768	0	3,456,202	529,180	3,985,382
BRIMFIELD	1,190,971	0	420,808	64,430	485,238
BROCKTON	128,909,020	4,310,392	18,861,064	2,887,822	21,748,886
BROOKFIELD	1,369,987	0	532,912	81,594	614,506
BROOKLINE	7,473,142	3,497,741	3,819,234	584,764	4,403,998
BUCKLAND	0	0	298,609	45,720	344,329
BURLINGTON	5,524,388	1,386,400	1,624,269	248,692	1,872,961
CAMBRIDGE	9,316,701	17,956,060	7,615,265	1,165,975	8,781,240
CANTON	3,760,236	878,002	1,553,135	237,801	1,790,936
CARLISLE	851,812	14,729	223,998	34,296	258,294
CARVER	10,319,108	0	1,576,731	241,414	1,818,145
CHARLEMONT	143,418	0	188,665	28,886	217,551
CHARLTON	0	0	1,400,782	214,474	1,615,256
CHATHAM	699,107	0	162,435	24,871	187,306
CHELMSFORD	9,432,005	2,535,342	3,279,476	502,122	3,781,598
CHELSEA	50,797,335	3,396,864	5,918,634	906,204	6,824,838
CHESHIRE	316,850	0	607,454	93,007	700,461
CHESTER	133,451	0	194,318	29,752	224,070
CHESTERFIELD	129,211	0	149,018	22,816	171,834
CHICOPEE	48,081,058	1,195,616	11,391,855	1,744,210	13,136,065
CHILMARK	0	0	4,047	620	4,667
CLARKSBURG	1,723,370	13,114	381,264	58,375	439,639
CLINTON	11,212,718	175,517	2,388,550	365,711	2,754,261
COHASSET	1,788,815	166,099	411,254	62,967	474,221
COLRAIN	0	0	275,354	42,159	317,513
CONCORD	2,154,784	383,959	919,155	140,732	1,059,887



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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
CONWAY	638,732	0	192,895	29,534	222,429
CUMMINGTON	70,568	0	90,039	13,786	103,825
DALTON	218,598	0	1,088,076	166,596	1,254,672
DANVERS	4,601,706	1,118,972	2,103,687	322,096	2,425,783
DARTMOUTH	9,683,685	0	2,720,814	416,585	3,137,399
DEDHAM	3,935,816	1,550,298	2,185,091	334,560	2,519,651
DEERFIELD	1,106,598	0	518,401	79,373	597,774
DENNIS	0	0	587,807	89,999	677,806
DEVENS	328,000	0	0	0	0
DIGHTON	0	0	750,161	114,857	865,018
DOUGLAS	8,066,226	0	787,657	120,598	908,255
DOVER	648,415	0	207,623	31,789	239,412
DRACUT	17,410,464	0	3,781,642	579,008	4,360,650
DUDLEY	0	0	1,666,009	255,083	1,921,092
DUNSTABLE	0	30,076	224,728	34,408	259,136
DUXBURY	4,341,487	0	956,721	146,484	1,103,205
EAST BRIDGEWATER	10,896,226	0	1,615,582	247,362	1,862,944
EAST BROOKFIELD	95,548	0	291,291	44,600	335,891
EAST LONGMEADOW	8,324,121	0	1,562,302	239,204	1,801,506
EASTHAM	340,536	0	160,802	24,620	185,422
EASTHAMPTON	8,158,515	108,874	2,939,329	450,042	3,389,371
EASTON	9,794,246	0	2,363,583	361,889	2,725,472
EDGARTOWN	455,629	28,507	47,174	7,223	54,397
EGREMONT	0	0	68,100	10,427	78,527
ERVING	413,092	13,150	61,140	9,361	70,501
ESSEX	0	33,828	234,921	35,969	270,890
EVERETT	33,919,780	4,084,357	3,914,642	599,372	4,514,014
FAIRHAVEN	7,657,403	391,434	2,094,396	320,674	2,415,070
FALL RIVER	93,641,102	2,290,951	23,734,037	3,633,925	27,367,962
FALMOUTH	5,224,411	0	1,496,353	229,107	1,725,460
FITCHBURG	41,150,295	214,811	9,024,551	1,381,751	10,406,302
FLORIDA	516,835	0	53,723	8,226	61,949
FOXBOROUGH	8,462,796	0	1,607,662	246,150	1,853,812
FRAMINGHAM	17,135,878	4,697,500	6,664,432	1,020,393	7,684,825
FRANKLIN	28,726,706	0	2,666,957	408,338	3,075,295
FREETOWN	1,546,895	0	1,024,891	156,921	1,181,812

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
GARDNER	19,135,945	120,747	4,468,972	684,245	5,153,217
GEORGETOWN	4,444,922	52,998	727,229	111,346	838,575
GILL	0	0	229,543	35,145	264,688
GLOUCESTER	6,204,130	1,923,054	2,642,985	404,668	3,047,653
GOSHEN	102,159	0	86,346	13,220	99,566
GOSNOLD	17,447	1,962	563	86	649
GRAFTON	8,180,814	0	1,687,603	258,389	1,945,992
GRANBY	4,732,473	0	952,996	145,913	1,098,909
GRANVILLE	1,344,685	0	173,046	26,495	199,541
GREAT BARRINGTON	0	0	819,120	125,416	944,536
GREENFIELD	9,734,728	0	3,426,642	524,654	3,951,296
GROTON	0	0	830,706	127,190	957,896
GROVELAND	0	0	687,260	105,227	792,487
HADLEY	790,348	138,341	369,882	56,633	426,515
HALIFAX	2,643,129	0	979,766	150,012	1,129,778
HAMILTON	0	42,887	656,812	100,565	757,377
HAMPDEN	0	0	676,114	103,520	779,634
HANCOCK	205,303	17,638	45,643	6,988	52,631
HANOVER	6,004,648	1,326,394	1,136,124	173,952	1,310,076
HANSON	11,943	0	1,264,731	193,643	1,458,374
HARDWICK	0	3,228	434,673	66,553	501,226
HARVARD	1,787,958	55,090	1,550,631	237,417	1,788,048
HARWICH	1,871,266	0	464,916	71,183	536,099
HATFIELD	812,018	0	336,777	51,564	388,341
HAVERHILL	36,078,018	2,503,145	8,437,205	1,291,823	9,729,028
HAWLEY	11,668	12,924	35,502	5,436	40,938
HEATH	0	0	84,583	12,950	97,533
HINGHAM	4,850,597	334,151	1,413,614	216,439	1,630,053
HINSDALE	111,270	0	228,618	35,004	263,622
HOLBROOK	4,956,102	4,757	1,588,423	243,204	1,831,627
HOLDEN	0	0	1,849,290	283,145	2,132,435
HOLLAND	889,479	0	217,849	33,355	251,204
HOLLISTON	6,879,932	412,300	1,313,876	201,168	1,515,044
HOLYOKE	67,779,308	606,646	10,435,570	1,597,793	12,033,363
HOPEDALE	6,268,494	0	703,802	107,759	811,561
HOPKINTON	5,788,652	120,287	743,552	113,845	857,397
HUBBARDSTON	8,587	0	432,746	66,258	499,004

Chap. 182

Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
HUDSON	8,415,317	0	2,152,286	329,537	2,481,823
HULL	3,891,843	1,388,549	1,083,188	165,847	1,249,035
HUNTINGTON	218,880	0	356,332	54,558	410,890
IPSWICH	2,550,997	775,432	1,060,088	162,310	1,222,398
KINGSTON	3,890,145	0	1,035,980	158,619	1,194,599
LAKEVILLE	2,437,801	0	883,125	135,215	1,018,340
LANCASTER	0	0	893,497	136,803	1,030,300
LANESBOROUGH	861,902	0	372,314	57,005	429,319
LAWRENCE	136,055,235	190,699	21,026,845	3,219,426	24,246,271
LEE	2,067,656	0	672,180	102,918	775,098
LEICESTER	9,911,439	0	1,874,033	286,934	2,160,967
LENOX	1,219,373	72,146	512,735	78,505	591,240
LEOMINSTER	40,477,387	11,693	6,167,107	944,247	7,111,354
LEVERETT	287,813	0	192,655	29,498	222,153
LEXINGTON	7,601,057	0	1,654,143	253,266	1,907,409
LEYDEN	0	0	88,049	13,481	101,530
LINCOLN	774,506	292,012	481,547	73,730	555,277
LITTLETON	3,017,400	164,924	624,195	95,571	719,766
LONGMEADOW	4,429,510	0	1,507,949	230,882	1,738,831
LOWELL	119,881,735	6,340,746	21,687,224	3,320,537	25,007,761
LUDLOW	12,688,709	0	3,297,199	504,835	3,802,034
LUNENBURG	4,620,790	0	1,141,383	174,757	1,316,140
LYNN	117,607,718	9,477,523	15,946,455	2,441,566	18,388,021
LYNNFIELD	4,095,804	362,288	808,342	123,766	932,108
MALDEN	41,237,571	5,586,730	8,696,298	1,331,493	10,027,791
MANCHESTER	0	0	240,028	36,751	276,779
MANSFIELD	17,263,411	725,040	1,778,774	272,348	2,051,122
MARBLEHEAD	4,903,471	39,403	1,194,906	182,952	1,377,858
MARION	465,310	0	243,539	37,288	280,827
MARLBOROUGH	11,626,039	2,728,327	3,509,376	537,321	4,046,697
MARSHFIELD	14,624,362	202,756	2,162,341	331,077	2,493,418
MASHPEE	4,527,865	0	397,103	60,801	457,904
MATTAPOISETT	568,024	0	437,452	66,978	504,430
MAYNARD	3,263,163	586,886	1,186,706	181,697	1,368,403
MEDFIELD	6,058,209	744,614	918,834	140,683	1,059,517
MEDFORD	11,681,327	6,432,448	7,209,945	1,103,916	8,313,861
MEDWAY	9,230,437	187,002	1,154,624	176,785	1,331,409
MELROSE	7,541,739	2,704,187	3,190,170	488,448	3,678,618



Chap. 182

Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
MENDON	27,663	0	441,076	67,533	508,609
MERRIMAC	0	0	785,896	120,329	906,225
METHUEN	37,369,988	163,026	5,727,102	876,878	6,603,980
MIDDLEBOROUGH	17,185,388	0	2,661,068	407,437	3,068,505
MIDDLEFIELD	17,650	0	57,379	8,785	66,164
MIDDLETON	1,598,957	126,570	480,794	73,615	554,409
MILFORD	14,245,479	0	3,296,696	504,758	3,801,454
MILLBURY	6,956,660	0	1,911,265	292,634	2,203,899
MILLIS	3,565,161	320,940	851,702	130,404	982,106
MILLVILLE	43,194	0	385,261	58,988	444,249
MILTON	4,786,872	1,245,145	2,388,246	365,665	2,753,911
MONROE	89,564	13,927	7,769	1,189	8,958
MONSON	7,708,640	0	1,408,931	215,722	1,624,653
MONTAGUE	6,507	0	1,364,557	208,928	1,573,485
MONTEREY	0	12,538	37,067	5,675	42,742
MONTGOMERY	19,446	0	88,560	13,559	102,119
MOUNT WASHINGTON	34,839	33,286	3,489	534	4,023
NAHANT	475,089	125,393	299,072	45,791	344,863
NANTUCKET	1,438,148	0	85,517	13,094	98,611
NATICK	5,843,990	1,942,474	2,428,369	371,808	2,800,177
NEEDHAM	6,118,846	205,993	1,705,544	261,136	1,966,680
NEW ASHFORD	166,015	7,313	15,581	2,386	17,967
NEW BEDFORD	110,955,531	716,255	24,207,708	3,706,449	27,914,157
NEW BRAINTREE	0	0	128,668	19,700	148,368
NEW MARLBOROUGH	0	0	63,211	9,678	72,889
NEW SALEM	0	0	110,683	16,947	127,630
NEWBURY	0	0	490,314	75,072	565,386
NEWBURYPORT	3,388,114	1,380,057	1,555,935	238,230	1,794,165
NEWTON	14,460,608	1,377,012	5,148,710	788,320	5,937,030
NORFOLK	3,486,975	0	1,035,062	158,479	1,193,541
NORTH ADAMS	14,464,725	185,853	4,627,279	708,484	5,335,763
NORTH ANDOVER	5,551,977	120,549	2,107,405	322,665	2,430,070
NORTH ATTLEBOROUGH	21,050,700	0	3,105,234	475,443	3,580,677
NORTH BROOKFIELD	4,451,604	0	860,039	131,681	991,720

Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
NORTH READING	6,170,866	945,499	1,096,475	167,882	1,264,357
NORTHAMPTON	7,376,359	577,922	4,242,771	649,612	4,892,383
NORTHBOROUGH	3,347,474	61,111	1,150,939	176,221	1,327,160
NORTHBRIDGE	14,256,878	3,071	2,275,644	348,424	2,624,068
NORTHFIELD	0	0	341,668	52,313	393,981
NORTON	13,094,617	0	2,243,284	343,470	2,586,754
NORWELL	2,778,831	541,079	687,802	105,309	793,111
NORWOOD	5,183,560	2,665,880	2,708,514	414,701	3,123,215
OAK BLUFFS	661,462	0	78,496	12,018	90,514
OAKHAM	80,415	0	207,077	31,706	238,783
ORANGE	5,516,748	2,115	1,742,469	266,790	2,009,259
ORLEANS	256,162	0	185,398	28,386	213,784
OTIS	0	0	39,258	6,011	45,269
OXFORD	9,416,524	0	2,219,385	339,811	2,559,196
PALMER	11,225,832	0	2,164,580	331,419	2,495,999
PAXTON	0	0	504,288	77,212	581,500
PEABODY	20,118,092	3,140,276	5,067,896	775,947	5,843,843
PELHAM	233,169	0	171,807	26,305	198,112
PEMBROKE	12,449,176	0	1,814,338	277,794	2,092,132
PEPPERELL	8,877	0	1,380,243	211,329	1,591,572
PERU	91,528	0	120,192	18,403	138,595
PETERSHAM	451,377	0	123,738	18,945	142,683
PHILLIPSTON	0	4,386	188,598	28,876	217,474
PITTSFIELD	35,756,340	880,284	8,555,511	1,309,937	9,865,448
PLAINFIELD	54,235	0	54,149	8,291	62,440
PLAINVILLE	2,687,691	0	818,839	125,373	944,212
PLYMOUTH	21,376,068	0	4,229,280	647,546	4,876,826
PLYMPTON	594,336	0	256,062	39,206	295,268
PRINCETON	0	0	319,569	48,929	368,498
PROVINCETOWN	278,151	22,181	130,058	19,913	149,971
QUINCY	16,126,667	11,567,002	10,578,453	1,619,670	12,198,123
RANDOLPH	12,185,588	1,825,854	4,026,799	616,544	4,643,343
RAYNHAM	0	0	1,227,334	187,918	1,415,252
READING	9,264,215	1,534,901	2,167,997	331,943	2,499,940
REHOBOTH	0	0	1,013,024	155,104	1,168,128
REVERE	33,590,732	5,334,444	6,476,715	991,651	7,468,366
RICHMOND	356,276	0	116,772	17,879	134,651
ROCHESTER	1,634,188	0	458,417	70,188	528,605

Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
ROCKLAND	10,359,483	394,336	2,511,335	384,511	2,895,846
ROCKPORT	1,370,912	0	472,285	72,312	544,597
ROWE	72,924	0	4,252	651	4,903
ROWLEY	0	114,232	483,811	74,077	557,888
ROYALSTON	0	0	173,785	26,608	200,393
RUSSELL	179,065	0	263,112	40,285	303,397
RUTLAND	10,197	0	883,378	135,254	1,018,632
SALEM	14,371,186	3,298,731	4,584,849	701,988	5,286,837
SALISBURY	0	0	681,974	104,417	786,391
SANDISFIELD	0	0	37,402	5,727	43,129
SANDWICH	6,873,318	88,406	1,139,865	174,525	1,314,390
SAUGUS	4,191,423	1,784,087	2,412,605	369,395	2,782,000
SAVOY	527,277	13,801	113,091	17,315	130,406
SCITUATE	5,208,715	875,037	1,412,437	216,259	1,628,696
SEEKONK	4,605,053	0	1,328,179	203,358	1,531,537
SHARON	6,964,282	62,495	1,456,723	223,039	1,679,762
SHEFFIELD	14,760	11,938	252,597	38,675	291,272
SHELBURNE	0	0	279,810	42,842	322,652
SHERBORN	538,802	20,951	215,624	33,014	248,638
SHIRLEY	4,484,574	185,558	1,255,183	192,181	1,447,364
SHREWSBURY	18,866,811	298,861	2,747,474	420,666	3,168,140
SHUTESBURY	616,453	0	183,035	28,025	211,060
SOMERSET	5,372,323	0	1,655,450	253,466	1,908,916
SOMERVILLE	20,597,265	16,219,924	12,055,660	1,845,845	13,901,505
SOUTH HADLEY	7,665,297	20,214	2,801,393	428,922	3,230,315
SOUTHAMPTON	2,614,089	0	687,738	105,300	793,038
SOUTHBOROUGH	2,861,518	0	472,081	72,280	544,361
SOUTHBRIDGE	16,282,624	0	3,797,171	581,386	4,378,557
SOUTHWICK	0	0	1,229,576	188,261	1,417,837
SPENCER	0	0	2,109,599	323,001	2,432,600
SPRINGFIELD	262,734,913	1,829,496	39,273,767	6,013,217	45,286,984
STERLING	0	0	742,383	113,666	856,049
STOCKBRIDGE	0	0	107,589	16,473	124,062
STONEHAM	3,532,166	2,028,958	2,251,812	344,776	2,596,588
STOUGHTON	12,759,783	103,134	3,366,896	515,506	3,882,402
STOW	0	6,974	448,322	68,643	516,965
STURBRIDGE	2,061,613	0	836,218	128,033	964,251
SUDBURY	4,367,981	641,561	954,514	146,146	1,100,660



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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid Funded Through Lottery Revenues	General Fund Supplement to Hold Harmless Lottery Aid	Total Lottery
SUNDERLAND	891,346	0	545,541	83,528	629,069
SUTTON	5,496,292	0	842,550	129,003	971,553
SWAMPSCOTT	2,701,925	352,328	1,091,550	167,128	1,258,678
SWANSEA	4,735,383	0	2,027,210	310,387	2,337,597
TAUNTON	45,146,596	0	9,078,133	1,389,955	10,468,088
TEMPLETON	0	0	1,307,638	200,213	1,507,851
TEWKSBURY	13,139,908	0	3,004,066	459,953	3,464,019
TISBURY	410,255	0	105,837	16,205	122,042
TOLLAND	0	9,864	9,650	1,477	11,127
TOPSFIELD	1,105,893	253,284	442,377	67,733	510,110
TOWNSEND	8,704	0	1,261,350	193,126	1,454,476
TRURO	264,595	0	32,471	4,972	37,443
TYNGSBOROUGH	7,502,677	0	1,043,082	159,707	1,202,789
TYRINGHAM	37,969	0	13,703	2,098	15,801
UPTON	24,535	0	528,594	80,933	609,527
UXBRIDGE	9,646,402	0	1,485,136	227,389	1,712,525
WAKEFIELD	4,868,148	1,438,080	2,389,038	365,786	2,754,824
WALES	698,579	0	254,937	39,034	293,971
WALPOLE	7,504,424	883,775	1,984,388	303,830	2,288,218
WALTHAM	7,619,002	5,458,868	5,630,683	862,115	6,492,798
WARE	8,166,339	15,257	1,850,192	283,283	2,133,475
WAREHAM	12,491,866	0	2,135,501	326,967	2,462,468
WARREN	71,661	0	847,904	129,823	977,727
WARWICK	0	28,890	97,670	14,954	112,624
WASHINGTON	11,943	23,752	71,998	11,024	83,022
WATERTOWN	3,486,296	4,427,251	3,053,794	467,567	3,521,361
WAYLAND	3,389,954	280,373	732,505	112,154	844,659
WEBSTER	9,199,351	62,006	2,618,621	400,938	3,019,559
WELLESLEY	6,518,222	96,838	1,314,235	201,223	1,515,458
WELLFLEET	157,726	0	63,088	9,659	72,747
WENDELL	0	25,534	158,467	24,263	182,730
WENHAM	0	139,794	341,098	52,226	393,324
WEST BOYLSTON	3,023,114	67,754	801,213	122,674	923,887
WEST					
BRIDGEWATER	2,226,304	47,212	664,864	101,798	766,662
WEST BROOKFIELD	214,017	0	512,575	78,481	591,056
WEST NEWBURY	0	0	303,647	46,491	350,138
WEST SPRINGFIELD	17,723,986	0	3,868,315	592,279	4,460,594

Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Aid	General	Total Lottery
			Funded Through Lottery Revenues	Fund Supplement to Hold Harmless Lottery Aid	
WEST					
STOCKBRIDGE	0	0	104,945	16,068	121,013
WEST TISBURY	0	182,434	39,094	5,986	45,080
WESTBOROUGH	4,432,684	145,058	1,124,964	172,243	1,297,207
WESTFIELD	34,043,025	0	6,794,748	1,040,346	7,835,094
WESTFORD	15,630,525	895,514	1,517,187	232,297	1,749,484
WESTHAMPTON	420,422	0	156,403	23,947	180,350
WESTMINSTER	0	0	695,629	106,508	802,137
WESTON	2,608,444	0	403,737	61,816	465,553
WESTPORT	4,478,373	0	1,313,148	201,057	1,514,205
WESTWOOD	3,547,941	36,263	755,991	115,750	871,741
WEYMOUTH	24,326,465	2,424,084	7,309,208	1,119,115	8,428,323
WHATELY	246,385	0	144,850	22,178	167,028
WHITMAN	119,435	0	2,260,011	346,031	2,606,042
WILBRAHAM	0	0	1,448,849	221,834	1,670,683
WILLIAMSBURG	432,416	0	326,774	50,033	376,807
WILLIAMSTOWN	965,143	0	1,030,496	157,779	1,188,275
WILMINGTON	9,957,492	1,254,452	1,595,997	244,363	1,840,360
WINCHENDON	10,861,118	25,366	1,793,833	274,654	2,068,487
WINCHESTER	5,209,589	344,404	1,298,293	198,782	1,497,075
WINDSOR	50,341	28,020	82,451	12,624	95,075
WINTHROP	5,184,551	2,287,531	2,566,405	392,943	2,959,348
WOBURN	6,708,151	3,586,952	3,351,079	513,085	3,864,164
WORCESTER	180,493,947	11,809,090	34,612,898	5,299,590	39,912,488
WORTHINGTON	72,731	0	135,577	20,758	156,335
WRENTHAM	3,814,719	0	1,006,293	154,074	1,160,367
YARMOUTH	2,607	0	1,362,759	208,652	1,571,411
Regional Total	640,333,651	378,517,988	810,875,000	124,153,283	935,028,283
Total	3,948,824,061				

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Regional School	7061-0008 Chapter 70
ACTON BOXBOROUGH	6,852,830
ADAMS CHESHIRE	10,464,212
AMHERST PELHAM	9,883,632
ASHBURNHAM WESTMINSTER	10,333,667
ASSABET VALLEY	2,994,328
ATHOL ROYALSTON	18,293,920
BERKSHIRE HILLS	2,864,582
BERLIN BOYLSTON	939,819
BLACKSTONE MILLVILLE	11,330,629
BLACKSTONE VALLEY	7,222,279
BLUE HILLS	4,117,441
BRIDGEWATER RAYNHAM	21,612,939
BRISTOL COUNTY	3,078,101
BRISTOL PLYMOUTH	9,326,406
CAPE COD	2,178,249
CENTRAL BERKSHIRE	8,930,319
CHESTERFIELD GOSHEN	772,802
CONCORD CARLISLE	1,925,396
DENNIS YARMOUTH	6,902,694
DIGHTON REHOBOTH	13,142,953
DOVER SHERBORN	1,465,508
DUDLEY CHARLTON	24,412,589
ESSEX COUNTY	4,314,850
FARMINGTON RIVER	414,256
FRANKLIN COUNTY	3,523,598
FREETOWN LAKEVILLE	7,565,074
FRONTIER	2,915,581
GATEWAY	5,986,331



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Chapter 70

Regional School

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GILL MONTAGUE	6,433,023
GREATER FALL RIVER	14,555,488
GREATER LAWRENCE	21,416,909
GREATER LOWELL	21,032,322
GREATER NEW BEDFORD	22,190,981
GROTON DUNSTABLE	11,080,035
HAMILTON WENHAM	3,506,180
HAMPDEN WILBRAHAM	11,749,844
HAMPSHIRE	3,066,174
HAWLEMONT	650,788
KING PHILIP	7,572,964
LINCOLN SUDBURY	2,522,250
MANCHESTER ESSEX	1,718,411
MARTHAS VINEYARD	2,901,535
MASCONOMET	5,052,267
MENDON UPTON	12,546,934
MINUTEMAN	2,295,103
MOHAWK TRAIL	6,262,133
MONTACHUSETT	12,300,386
MOUNT GREYLOCK	1,776,889
NARRAGANSETT	10,356,119
NASHOBA	6,605,746
NASHOBA VALLEY	2,903,060
NAUSET	3,453,823
NEW SALEM WENDELL	669,769
NORFOLK COUNTY	1,024,400
NORTH MIDDLESEX	21,025,248
NORTH SHORE	1,649,764
NORTHAMPTON SMITH	954,661

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**Chap. 182**

Regional School	7061-0008 Chapter 70
NORTHBORO SOUTHBORO	2,920,581
NORTHEAST METROPOLITAN	7,766,451
NORTHERN BERKSHIRE	4,393,857
OLD COLONY	3,383,947
OLD ROCHESTER	2,112,657
PATHFINDER	5,113,578
PENTUCKET	13,496,924
PIONEER	4,281,429
QUABBIN	17,325,703
QUABOAG	8,505,385
RALPH C MAHAR	5,664,360
SHAWSHEEN VALLEY	5,485,056
SILVER LAKE	6,954,999
SOUTH MIDDLESEX	2,600,949
SOUTH SHORE	3,734,822
SOUTHEASTERN	12,045,030
SOUTHERN BERKSHIRE	1,939,087
SOUTHERN WORCESTER	9,238,460
SOUTHWICK TOLLAND	8,380,674
SPENCER EAST BROOKFIELD	14,268,534
TANTASQUA	8,066,079
TRI COUNTY	5,427,668
TRITON	8,743,809
UPISLAND	842,524
UPPER CAPE COD	3,070,139
WACHUSETT	21,928,787
WHITMAN HANSON	23,979,759
WHITTIER	5,624,212
Regional Total	640,333,651

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**SECTION 4.** Section 35X of chapter 10 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 22 to 24, inclusive, the words “and that total not more than 20 per cent of the department's expenditures related to health board licensing for the previous fiscal year”.

**SECTION 5.** Said section 35X of said chapter 10, as so appearing, is hereby further amended by adding the following subsection:-

(d) Notwithstanding any general or special law to the contrary, the total amount of any new fee and any increase in the fee in effect after the fee increases authorized pursuant to subsection (c) for obtaining or renewing a license, certificate, registration, permit or authority issued by a board within the department of public health, excluding the board of registration in medicine, adopted by the secretary of administration and finance, following a public hearing, shall be deposited in the fund.

**SECTION 6.** Section 35CC of said chapter 10, as appearing in the 2006 Official Edition, is hereby amended by the inserting after the word “purposes” , in line 12, the following words:- and for expenses related to the administration of the fund; provided, however, that said administrative expenses shall not exceed \$75,000 annually.

**SECTION 7.** Said chapter 10 is hereby further amended by inserting after section 69A, inserted by section 7 of chapter 86 of the acts of 2008, the following section:-

Section 69B. (a) There shall be set up on the books of the commonwealth a separate fund to be known as the Endowment Incentive Holding Fund to be used, without appropriation, for purposes outlined in section 15E of chapter 15A. The board of higher education shall administer the fund and shall be its trustee. No monies deposited into this holding fund that are unexpended at the end of the fiscal year shall revert to the General Fund. No expenditure from said fund shall cause said fund to be in a deficiency at the close of a fiscal year.

**SECTION 8.** Section 6 of chapter 14 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

8. Shall prepare and submit to the governor and the general court a bimonthly report containing the preliminary tax revenue collected. Said report shall be submitted to the governor, the chair and ranking member of the house committee on ways and means and the chair and ranking member of the senate committee on ways and means on or by the first day in each month and the fifteenth day in each month.

**SECTION 9.** Section 1 of chapter 19B of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

**SECTION 10.** Chapter 29 of the General Laws is hereby amended by inserting after section 2PPP the following section:

Section 2QQQ. There shall be established and set up on the books of the commonwealth a separate fund to be known as the e-Health Institute Fund. Expenditures from the e-Health Institute Fund shall be subject to appropriation.



**SECTION 11.** Section 22C of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in line 29, the words “as of June thirtieth, two thousand and 23” and inserting in place thereof the following:- on June 30, 2026.

**SECTION 12.** Section 102 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 32, 36 and 43, the figure “\$12,000” and inserting in place thereof, in each instance, the following figure:- \$16,000.

**SECTION 13.** Section 8 of chapter 44B of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Except as otherwise provided, the fees of the registers of deeds to be paid when a document or instrument is recorded shall be subject to a surcharge of \$20; provided, however, that if the document or instrument to be filed includes multiple references to a document or instrument intending or attempting to assign, discharge, release, partially release, subordinate or notice any other document or instrument, each reference shall be separately indexed and separately assessed an additional \$20 surcharge. The fee for recording a municipal lien certificate shall be subject to a surcharge of \$10; provided, however, that if the certificate includes multiple references to a document or instrument intending or attempting to assign, discharge, release, partially release, subordinate or notice any other document or instrument, each reference shall be separately indexed and separately assessed an additional \$10 surcharge. The surcharges imposed shall be used for community preservation purposes. No surcharge shall apply to a declaration of homestead under chapter 188. No surcharge shall apply to the fees charged for additional pages, photostatic copies, abstract cards or additional square feet for the recording of plans.

**SECTION 14.** Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 991, the words “forty thousand dollars” and inserting in place thereof the following words:- the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of section 6 of chapter 62, for a single person who is not a head of household.

**SECTION 15.** Section 15 of chapter 60 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “five dollars” and inserting in place thereof the following words:- not more than \$30.

**SECTION 16.** Section 1 of chapter 60A of the General Laws, as so appearing, is hereby amended by inserting after the seventh paragraph the following 2 paragraphs:-

In any city or town accepting the provisions of this paragraph, the excise imposed by this chapter shall not apply to a motor vehicle owned and registered by a resident who is in active and full-time military service as a member in the armed forces of the United States or the national guard, army or air, of any state, and has been deployed or stationed outside the territorial boundaries of the continental United States for a period of at least 45 days in the calendar year of the exemption. If the military member is wounded or killed in an armed

conflict, he shall not be subject to the foregoing period of service qualification for the calendar year in which he is wounded or killed. This exemption shall apply only to a motor vehicle owned and registered by a military member in his own name or jointly with a spouse for a non-commercial purpose and a military member may qualify for this exemption for only 1 motor vehicle for each calendar year. A municipality which accepts the provisions of this paragraph shall, in connection with the issuance of warrant to collect unpaid motor vehicle or trailer excise tax from a delinquent taxpayer, add \$3 to the fee prescribed in clause 9 of section 15 of chapter 60. The acceptance by a municipality of this paragraph shall take effect on the first day of January next occurring after the approval by the municipality to accept this paragraph.

A person who qualifies for any calendar year for exemption from the excise imposed by this section on a motor vehicle owned and registered by him shall be entitled to the exemption upon application to the assessors for that year as provided in section 2 for the procedure of an owner aggrieved by the excise assessed. An application for exemption may be made by such person; his spouse, if the motor vehicle is jointly owned and registered in the names of the person and spouse; or, if the person is deceased, a surviving spouse, administrator, executor or trustee of the estate, will or trust, as the case may be.

**SECTION 17.** Said chapter 60A is hereby further amended by adding the following section:-

Section 9. In any city or town accepting the provisions of this section and notwithstanding any other provision of this chapter to the contrary, any excise due under this chapter by a member of the Massachusetts National Guard or reservist or a dependent of a member of the Massachusetts National Guard or reservist shall be deferred while that member is on active service outside the commonwealth and for a period of up to 180 days after completion of that service. No interest or penalties shall be assessed for any period before the expiration of the 180 days.

**SECTION 18.** Section 6 of chapter 62 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 191, the word “five” and inserting in place thereof the following figure:- 6.

**SECTION 19.** Section 2 of chapter 62B of the General Laws, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

The commissioner may, if he deems such action necessary for the protection of the revenue of the commonwealth, require persons other than employers: (1) to deduct and withhold taxes from payments made by such persons to residents, nonresidents and part-year residents of the commonwealth or, in the case of S corporations or entities treated as partnerships, from the distributive shares of income of such persons attributable to their shareholders or members; (2) to file withholding returns as prescribed by the commissioner; and (3) to pay over to the commissioner, or to a depository designated by the commissioner, the taxes so required to be deducted and withheld; provided, however, that nothing in this

paragraph shall authorize the commissioner to require any corporation, foundation, organization or institution that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, as amended and in effect for the taxable year, to withhold taxes from persons who are not employees, except where the payments made by the exempt person for a particular performance or other event exceed \$10,000. Any person other than an employer required to withhold and deduct taxes under this paragraph shall be treated as an employer for purposes of sections 5 through 12.

**SECTION 20.** Section 16 of chapter 62C of the General Laws, as so appearing, is hereby amended by inserting after subsection (c) the following subsection:-

(c½) Every licensee under section 7B of chapter 64C shall, on or before the twentieth day of each calendar month or on or before the twentieth day of the month following each calendar quarter, as the commissioner shall require, file with the commissioner a return for each place of business maintained, stating the quantity of cigars and smoking tobacco sold by such licensee in the commonwealth during the preceding calendar month or quarter, as the case may be, and such return shall contain or be accompanied by such further information as the commissioner shall require. If a licensee ceases to sell cigars and smoking tobacco within the commonwealth, he shall immediately file with the commissioner a return for the period ending with such cessation.

**SECTION 21.** Section 33 of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 11 and 19, the words "one-half of".

**SECTION 22.** Section 47A of said chapter 62C, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:-

(d) If the commissioner determines from the information furnished pursuant to this section, or otherwise, that any person who holds a license or certificate of authority issued by any such agency or who has agreed to furnish goods, services or real estate space to any such agency has neglected or refused to file any returns or to pay any tax required under this chapter and that such person has not filed in good faith a pending application for abatement of such tax or a pending petition before the appellate tax board contesting such tax or entered a payment agreement with which the taxpayer is fully compliant, or has been penalized pursuant to section 9 of chapter 62E for failure to comply with said chapter 62E relating to reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with said chapter 119A relating to withholding and remitting child support, the commissioner shall notify such agency and such person in writing. Upon the written request of the commissioner, the agency, department, board, commission, division, authority, district or other agency of the commonwealth, shall promptly revoke or suspend that license or certificate of authority. Any license or certificate of authority suspended or revoked under this section shall not be reissued or renewed until the agency receives a certificate issued by the commissioner that the licensee is in good standing with respect to all returns due and taxes payable to the commissioner as of the date of issuance of the certificate, including all taxes and returns referenced in the initial notification or, if the licensee has been penalized for failure to comply



with the provisions relating to reporting of employees and contractors under said chapter 62E or withholding and remitting child support under said chapter 119A, a certificate issued by the commissioner that the licensee is in compliance with those provisions.

(e) Where a license revocation, suspension or nonrenewal is based upon nonpayment of an assessed tax administered under this chapter, the licensee's sole right of appeal and to a hearing shall be pursuant to and within the time limitations of this chapter. The commissioner shall give the licensee not less than 30 days notice of any proposed action, during which time the licensee may enter into a payment agreement with the commissioner or may file a good faith abatement application within the time periods determined under section 37. Such an abatement application shall stay a proposed license revocation, suspension, or nonrenewal until the amount of disputed tax due is finally determined. A licensee who is beyond the time limitations in said section 37 but who disputes that he is liable for the assessment and is unable to resolve that issue with the commissioner during the 30-day period may appeal the proposed revocation, suspension or nonrenewal by filing a civil action under section 14 of chapter 30A. The scope of the appeal shall be limited to assertions of mistake or verification of payments made and shall not include determination or redetermination of the proper amount of tax assessed or any other issues appropriately raised through a timely filed abatement under said section 37. Any stay of the proposed revocation, suspension or nonrenewal pending resolution of the appeal shall be within the discretion of the court.

**SECTION 23.** Said chapter 62C is hereby further amended by inserting after said section 47A the following section:-

Section 47B. (a) If the commissioner determines that any person who holds a driver's license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration has neglected or refused to file any returns or to pay any tax required under this chapter and that the person has not filed in good faith a pending application for abatement of such tax or a pending petition before the appellate tax board contesting such tax or entered a payment agreement with which the taxpayer is fully compliant, the commissioner shall notify the person in writing and the registry of motor vehicles of that determination. Upon receipt of notice from the commissioner, the registrar shall promptly suspend or revoke, or prohibit issuance or renewal, of the license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration of the taxpayer. A license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration suspended or revoked under this section shall not be issued, reissued or renewed until the registry receives a certificate from the commissioner stating that the taxpayer is in good standing with respect to all returns due and taxes payable to the commissioner as of the date of issuance of the certificate, including all taxes and returns referenced in the initial notice.

(b) Where a revocation, suspension or nonrenewal of a license, permit, right to operate or certificate of motor vehicle registration is based upon nonpayment of an assessed tax administered under this chapter, the sole right of appeal and to a hearing shall be pursuant

to and within the time limitations of this chapter and not pursuant to chapter 30A. The commissioner shall give the taxpayer not less than 30 days notice of any such proposed action, during which time the taxpayer may enter into a payment agreement with the commissioner or file a good faith abatement application within the time periods determined under section 37. Filing of an abatement application shall stay the proposed revocation, suspension or nonrenewal of a license, permit, right to operate or certificate of motor vehicle registration until the amount of disputed tax due is finally determined. The taxpayer subject to a proposed revocation, suspension or nonrenewal of a license, permit, right to operate or certificate of motor vehicle registration, who is beyond the time limitations in said section 37 but who disputes that he is liable for the assessment and is unable to resolve that issue with the commissioner during the 30-day period, may appeal the proposed revocation, suspension or nonrenewal by filing a civil action as provided in section 14 of chapter 30A. The scope of the appeal shall be limited to assertions of mistake or verification of payments made and shall not include determination or redetermination of the proper amount of tax assessed or any other issues appropriately raised through a timely-filed abatement under said section 37. Any stay of the proposed revocation, suspension or nonrenewal pending resolution of an appeal shall be within the discretion of the court.

**SECTION 24.** Section 49A of said chapter 62C, as so appearing, is hereby amended by adding the following subsection:-

(f) Where the revocation, suspension or nonrenewal of a license, permit, right to operate or certificate of motor vehicle registration is based upon nonpayment of an assessed tax administered under this chapter, the sole right of appeal and to a hearing shall be pursuant to and within the time limitations of this chapter. The commissioner shall give the taxpayer not less than 30 days notice of any proposed action, during which the taxpayer may enter into a payment agreement with the commissioner or file a good faith abatement application within the time periods determined under section 37. The filing of an abatement application shall stay the proposed revocation, suspension or nonrenewal of a license, permit, right to operate or certificate of motor vehicle registration until the amount of disputed tax due is finally determined. The taxpayer subject to a proposed revocation, suspension or nonrenewal of a license, permit, right to operate or certificate of motor vehicle registration, who is beyond the time limitations in said section 37 but who disputes that he is liable for the assessment and is unable to resolve that issue with the commissioner during the 30-day period, may appeal the proposed revocation, suspension or nonrenewal by filing a civil action as provided in section 14 of chapter 30A. The scope of the appeal shall be limited to assertions of mistake or verification of payments made and shall not include determination or redetermination of the proper amount of tax assessed or any other issues appropriately raised through a timely-filed abatement under said section 37. Any stay of the proposed revocation, suspension or nonrenewal pending resolution of this appeal shall be within the discretion of the court.

**SECTION 25.** Section 50 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 22, the words "Notwithstanding section 65, the" and inserting in place thereof the following word:- The.

**SECTION 26.** Section 65 of said chapter 62C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Taxes shall be collected: (i) within 10 years after the assessment of the tax; (ii) within any further period after that 10-year period during which the taxes remain unpaid but only against any real or personal property of the taxpayer to which a tax lien has attached and for which a notice of lien has been filed or recorded under section 50 in favor of the commonwealth in accordance with applicable state or federal law within 10 years after the assessment of the tax; (iii) before the expiration of any period of collection agreed upon in writing by the commissioner and the taxpayer before the expiration of that 10-year period; or (iv) if there is a release of levy under section 64 after that 10-year period, then before that release. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When any question relative to such taxes is pending before any agency or court at the end of that 10-year period, the commissioner's right to collect any tax due shall continue until 1 year after the final determination of that question.

**SECTION 27.** Section 67 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 7, the words "or retailer" and inserting in place thereof the following words:- retailer, cigar distributor or cigar retailer.

**SECTION 28.** Said section 67 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 21, the words "or retailer" and inserting in place thereof the following words:- retailer, cigar distributor or cigar retailer.

**SECTION 29.** Said section 67 of said chapter 62C of the General Laws, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

All licenses, other than licenses for retailers and cigar retailers as defined in chapter 64C, shall expire annually on a date prescribed by the commissioner. Licenses for retailers and cigar retailers shall expire every other year on a date prescribed by the commissioner. The commissioner may provide for combined forms of licenses and license applications.

**SECTION 30.** Said section 67 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 48, the words "and retailers" and inserting in place thereof the following words:- , retailers, cigar distributors and cigar retailers.

**SECTION 31.** Said section 67 of said chapter 62C, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

The secretary of administration and finance shall annually determine the fees for licenses and renewals thereof under section 3B of chapter 7 in the following categories: distributors; unclassified importers; unclassified exporters; manufacturers; wholesalers; vending machine operators; unclassified acquirers; transportation companies; retailers; cigar distributors; cigar retailers; user-sellers; suppliers; users of special fuels; and motor carriers



or their vehicles; provided, however, that in case of a manufacturer, wholesaler, cigar distributor or vending machine operator who maintains more than 1 place of business, the fee for each additional place of business shall be one-half of the above determined fee. No fee or part thereof, shall be refunded by reason of relinquishment, suspension or revocation of a license.

**SECTION 32.** Section 1 of chapter 62D of the General Laws, as so appearing, is hereby amended by inserting after the word “assistance”, in line 4, as so appearing, the following words:- , the executive office of health and human services.

**SECTION 33.** Said section 1 of said chapter 62D, as so appearing, is hereby further amended by inserting after the word “debtor”, in line 17, the following words:- ; an amount owed to the executive office of health and human services by a debtor.

**SECTION 34.** Said section 1 of said chapter 62D is hereby further amended by striking out, in lines 57 to 61, inclusive, as so appearing, the words “for costs incurred as a result of noncompliance by that individual with an order to provide coverage for the cost of health services to a child eligible for assistance under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E;” and inserting in place thereof the following words:- or the executive office of health and human services;.

**SECTION 35.** Section 1 of chapter 64C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 50, the words “and (2)” and inserting in place thereof the following words:- , (2) little cigars, which shall mean rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco and as to which 1,000 units weigh not more than 3 pounds, and (3).

**SECTION 36.** Said section 1 of said chapter 64C, as so appearing, is hereby further amended by inserting after the word “meaning”, in line 56, the following words:- , without limitation, little cigars and.

**SECTION 37.** Section 6 of said chapter 64C, as so appearing, is hereby amended by striking out the last paragraph.

**SECTION 38.** Said chapter 64C is hereby further amended by striking out section 7B, as so appearing, and inserting in place thereof the following section:-

Section 7B. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Cigar”, any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco; provided, however, that “cigar” shall not include any roll of tobacco that is a cigarette as defined in section 1.

“Cigar distributor”, (i) any person who imports, or causes to be imported, into the commonwealth cigars or smoking tobacco for sale or who manufactures cigars or smoking tobacco in the commonwealth, and (ii) any person within or without the commonwealth who is authorized by the commissioner to make returns and pay the excise on cigars and smoking tobacco sold, shipped or delivered by him to any person in the commonwealth.

“Cigar retailer”, any person who sells or furnishes cigars or smoking tobacco in small quantities to consumers for individual use; provided, however, said cigars or smoking tobacco shall not be used for the purpose of resale.

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

“Smoking tobacco”, roll-your-own tobacco and pipe tobacco and other kinds and forms of tobacco suitable for smoking.

“Taxed cigars and smoking tobacco”, cigars and smoking tobacco upon which the excise has been paid in full by the date on which payment is due, and with respect to which the return has been completed, signed and filed with the commissioner by the date on which the return is due, in accordance with this section and with section 16 of chapter 62C.

“Untaxed cigars and smoking tobacco”, cigars and smoking tobacco upon which the excise has not been paid in full by the date on which payment is due, or with respect to which the return has not been completed, signed and filed with the commissioner by the date on which the return is due, in accordance with this section and with section 16 of chapter 62C.

“Wholesale price”, (i) in the case of a manufacturer of cigars and smoking tobacco, the price set for such products or, if no price has been set, the wholesale value of these products; (ii) in the case of a cigar distributor who is not a manufacturer of cigars or smoking tobacco, the price at which the cigar distributor purchased these products; or (iii) in the case of a cigar retailer or a consumer, the price at which he purchased these products.

(b) An excise shall be imposed on all cigars and smoking tobacco held in the commonwealth at the rate of 30 per cent of the wholesale price of such products. This excise shall be imposed on cigar distributors at the time cigars or smoking tobacco are manufactured, purchased, imported, received or acquired in the commonwealth. This excise shall not be imposed on any cigars or tobacco products that (i) are exported from the commonwealth; or (ii) are not subject to taxation by the commonwealth pursuant to any law of the United States.

(c) Every cigar retailer shall be liable for the collection of the excise on all cigars or smoking tobacco in his possession at any time, upon which the excise has not been paid by a cigar distributor, and the failure of any cigar retailer to produce or exhibit to the commissioner or his authorized representative, upon demand, an invoice by a cigar distributor for any cigars or smoking tobacco in his possession, shall be presumptive evidence that the excise thereon has not been paid and that such cigar retailer is liable for the collection of the excise thereon.

(d) The amount of the excise advanced and paid by a cigar distributor or cigar retailer, as provided in this section, shall be added to and collected as part of, the sales price of the cigars or smoking tobacco.

(e)(1) A cigar distributor shall be liable for the payment of the excise on cigars and smoking tobacco that he imports or causes to be imported into the commonwealth or that he manufactures in the commonwealth, and every cigar distributor authorized by the commissioner to make returns and pay the excise on cigars or smoking tobacco sold, shipped or delivered by him to any person in the commonwealth shall be liable for the collection and

payment of the excise on all cigars and smoking tobacco sold, shipped or delivered.

(2) Every person who does not acquire untaxed cigars or smoking tobacco, but acquires taxed cigars and smoking tobacco for sale at retail, shall not be licensed as a cigar distributor under this section, but shall be required, during the period that such person is a retailer of taxed cigars or smoking tobacco, to be licensed as a cigar retailer.

(f) A person outside the commonwealth who ships or transports cigars or smoking tobacco to cigar retailers in the commonwealth, to be sold by those cigar retailers, may apply for a license as a nonresident cigar distributor and, if the commissioner issues such a license to him, he shall thereafter be subject to all the provisions of this section and be entitled to act as a cigar distributor, provided he files proof with his application that he has appointed the state secretary as his agent for service of process relating to any matter or issue arising under this section. Such a nonresident person shall also agree to submit his books, accounts and records for examination in the commonwealth during reasonable business hours by the commissioner or his authorized representative.

(g) Every resident of the commonwealth shall be liable for the collection of the excise on all cigars or smoking tobacco in his possession at any time, upon which the excise has not been paid by a cigar distributor or cigar retailer, and the failure of any such consumer to produce or exhibit to the commissioner or his authorized representative, upon demand, an invoice or sales receipt by a cigar distributor or cigar retailer for any cigars or smoking tobacco in his possession, shall be presumptive evidence that the excise thereon has not been paid and that such consumer is liable for the collection of the excise thereon.

(h) No person shall act as a cigar distributor or cigar retailer in the commonwealth unless licensed to do so in accordance with section 67 of chapter 62C. If a cigar distributor or cigar retailer acts in more than 1 of said capacities at any 1 place of business, he shall procure a license for every capacity in which he acts, unless, upon application to the commissioner, the commissioner determines otherwise. Each license so issued or a duplicate copy thereof shall be prominently displayed on the premises covered by the license.

(i) Except as this section expressly provides to the contrary, the provisions of this chapter and of chapter 62C relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall so far as pertinent, apply to the excise tax imposed by this section.

(j) For the purposes of section 5, cigars and smoking tobacco shall be tobacco products, cigar distributors shall be wholesalers and cigar retailers shall be retailers.

(k) For the purposes of section 8, untaxed cigars and smoking tobacco found in the commonwealth shall be cigarettes, which have not been returned and are not returnable under section 16 of chapter 62C or section 6 as the context requires.

(l)(1) Any person who sells, offers for sale or possesses with intent to sell any cigars or smoking tobacco or otherwise acts as a cigar distributor or cigar retailer without being licensed so to do, shall, in addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and not more



than \$25,000 for each subsequent offense. Any person who knowingly purchases or possesses any cigars or smoking tobacco not manufactured, purchased or imported by a licensed cigar distributor or licensed cigar retailer shall, in addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

No person, either as principal or agent, shall sell or solicit orders for cigars or smoking tobacco to be shipped, mailed or otherwise sent or brought into the commonwealth to any person not a licensed cigar distributor or licensed cigar retailer, unless the same is to be sold to or through a licensed cigar distributor or licensed cigar retailer. Any person who knowingly violates this provision shall, in addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

It shall be presumed that the cigars and smoking tobacco are subject to the excise until the contrary is established and the burden of proof that they are not shall be upon the person on whose premises the cigars or smoking tobacco were found.

(2) Any person who knowingly has in his possession a shipping case or other container of cigars or smoking tobacco not bearing the name and address of the person receiving the cigars or smoking tobacco from a manufacturer or such other markings as the commissioner may prescribe and any person knowingly in possession of such a shipping case or other container of cigars or smoking tobacco from which this name and address has been erased or defaced shall, in addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense or not more than \$25,000 for each subsequent offense.

(3) Any person who files any false return, affidavit, or statement, or who violates any provision of this section for which no other penalty has been provided shall, in addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

(4) Whenever the commissioner or a police officer discovers, in the possession of any person not being a licensed cigar distributor or one authorized by the commissioner, any untaxed cigars or smoking tobacco, he may seize and take possession of those cigars and smoking tobacco, together with any vending machine or other receptacle, which shall include, without limitation, a motor vehicle, boat or airplane, in which they are contained or in which they are transported. Such cigars, smoking tobacco, vending machine or other receptacle seized by a police officer shall be turned over to the commissioner and shall be forfeited to the commonwealth. The commissioner shall destroy such cigars or smoking tobacco and shall destroy or otherwise dispose of such vending machine or other receptacle. The commissioner may, within a reasonable time after the seizure, by a public notice at least 5 days before the day of sale, sell the vending machine or other receptacle at public sale and deposit the proceeds in the General Fund.

(5) The state police and all local police authorities may, and at the request of the commissioner or his duly authorized agent shall, enforce this section. Each violation of this section shall be a separate offense.

**SECTION 39.** Said chapter 64C is hereby further amended by striking out section 38A, as so appearing, and inserting in place thereof the following section:-

Section 38A. Whenever the commissioner or a police officer discovers, in the possession of any person not being a stamper, licensed transportation company or one authorized by the commissioner, any cigarettes subject to tax under this chapter that do not have affixed to them the required Massachusetts stamps showing the payment of excise, or any smokeless tobacco on which tax has not been paid, he may seize and take possession of those cigarettes or smokeless tobacco, together with any vending machine or other receptacle, which shall include, without limitation, a motor vehicle, boat or airplane, in which the cigarettes or smokeless tobacco are contained or in which they are transported. The cigarettes, smokeless tobacco, vending machine or other receptacle seized by a police officer shall be turned over to the commissioner and shall be forfeited to the commonwealth. The commissioner shall destroy such cigarettes and smokeless tobacco and shall destroy or otherwise dispose of such vending machine or other receptacle. The commissioner may, within a reasonable time after the seizure, by a public notice at least 5 days before the day of sale, sell the vending machine or other receptacle at public sale and deposit the proceeds in the General Fund.

**SECTION 40.** Chapter 64H is hereby further amended by inserting after section 3 the following section:-

Section 3A. (a) Every manufacturer, wholesaler or unclassified acquirer, as defined in chapter 64C, doing business in the commonwealth, or any other person doing business in the commonwealth, selling tobacco products, including cigarettes, cigars, smokeless tobacco and smoking tobacco, to others for resale in the commonwealth, shall pay, as a prepayment for the tax imposed by this chapter, a tax on tobacco products that will be held for retail sale in the commonwealth. The tax shall be computed on each sale of tobacco products by multiplying the tax rate set by this chapter by the wholesale sales price at which such manufacturer, wholesaler, unclassified acquirer or other person sells the tobacco products. The tax imposed by this section shall be paid at the same time and in the same manner as the tax imposed by section 2. Any manufacturer, wholesaler, unclassified acquirer or other person prepaying the tax shall, with respect to such prepayment, be a vendor for purposes of section 1 of this chapter and section 16 of chapter 62C, shall file returns and pay over tax accordingly, and shall separately state on each customer invoice or other written record, as prescribed by the commissioner, the amount of prepaid sales tax charged. This section shall not apply to manufacturers and unclassified acquirers to the extent that said manufacturers and unclassified acquirers distribute such product through a licensed wholesaler or unclassified acquirer.

(b) Every person selling tobacco products at retail in the commonwealth who is required to pay the tax imposed by this chapter shall be allowed a credit in the amount of the

prepayment against the total amount of tax it is required to pay over to the commissioner under this chapter. Every such person must maintain invoices and other records substantiating the amount of tax prepaid.

(c) Chapter 64I shall apply to the extent that the tax under this section is not paid over to the commissioner by any of the persons mentioned in subsection (a) or (b). All taxes imposed by this section shall be presumed to be a direct tax on the retail consumer, pre-collected for the purpose of convenience and facility only.

(d) The commissioner may adopt regulations to implement this section, which regulations shall include a provision to prevent the payment of tax by more than 1 taxpayer.

**SECTION 41.** Paragraph (p) of section 6 of said chapter 64H, as appearing in the 2006 Official Edition, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) sales of fertilizer, including ground limestone, hydrated lime, seed inoculants and plant hormones, as well as other substances commonly regarded in the same category and for the same use, but not including any sales of pesticides, including insecticides, herbicides, fungicides, miticides and all materials registered with the Environmental Protection Agency as pesticides under the Federal Insecticide, Fungicide and Rodenticide Act and other pesticides commonly regarded in the same category and for the same purpose, except when purchased by a person licensed under chapter 132B or otherwise exempt under paragraph (r);.

**SECTION 42.** Section 33 of said chapter 64H, as so appearing, is hereby amended by adding the following sentence:- For the purposes of this section, a vendor shall include a person who has made a prepayment of tax under section 3A.

**SECTION 43.** Section 34 of chapter 64I of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following sentence:- For the purposes of this section, a vendor shall include a person who has made a prepayment of tax under section 3A of chapter 64H.

**SECTION 44.** Section 20 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 69, the figure "25" and inserting in place thereof the following figure:- 30.

**SECTION 45.** Section 24 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 16 and 763, the figure "125" and inserting in place thereof, in each instance, the following figure:- 150.

**SECTION 46.** Section 3 of chapter 109 of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 and 19, the word "thirty" and inserting in place thereof, in each instance, the following figure:- 60.

**SECTION 47.** Said chapter 109 is hereby further amended by inserting after section 4 the following section:-

Section 4A. (a) A limited partnership may change its resident agent or the street address of the resident agent by filing a certificate of change of agent or address with the state



secretary. The statement shall contain the following information:

- (1) the name of the limited partnership;
- (2) the name and street address of its current resident agent;
- (3) if the current resident agent is to be changed, the name and street address of the new resident agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and
- (4) if the street address of the business office of the resident agent is to be changed, the new street address of the business office of the resident agent.

(b) If a resident agent changes the street address of his business office, he may change the street address of the business office of any limited partnership for which he is resident agent by notifying the limited partnership in writing of the change and signing, manually or by facsimile, and delivering to the state secretary for filing a statement of change that complies with the requirements of subsection (a) and recites that the limited partnership has been notified of the change. If the street address of more than 1 limited partnership is being changed at the same time, there may be included in a single certificate the names of all limited partnerships the street addresses of the business offices of which are being changed.

(c) Any resident may resign his agency appointment by signing and delivering to the state secretary a certificate of resignation. The resident agent shall furnish a copy of such statement to the limited partnership. The agency appointment shall be terminated on the thirty-first day following the date on which the statement was filed.

**SECTION 48.** Section 8 of said chapter 109, as so appearing, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) the address of the office and the name and address of the agent for service of process required to be maintained by section 4; provided, however, that the agent's written consent to the appointment as agent shall be either in the certificate or attached to it;.

**SECTION 49.** The second paragraph of section 49 of said chapter 109, as so appearing, is hereby amended by striking out clause (7) and inserting in place thereof the following clause:-

(7) the name and business address of its resident agent and the agent's written consent, either on the certificate or attached to it, to his appointment as agent; and.

**SECTION 50.** Said chapter 109 is hereby further amended by striking out section 52 and inserting in place thereof the following section:-

Section 52. A foreign limited partnership doing business in the commonwealth shall appoint a resident agent as its true and lawful attorney upon whom all lawful process in any action or proceeding against the foreign limited partnership in the commonwealth may be served. Sections 15.07, 15.08 and 15.09 of chapter 156D relative to the appointment and qualifications of a resident agent shall be applicable to the appointment of a resident agent pursuant to this section.

**SECTION 51.** Said chapter 109 is hereby further amended by adding the following 4 sections:-

Section 63. (a) Each domestic or foreign limited partnership authorized to transact business in the commonwealth shall file an annual report with the state secretary on or before the anniversary date of the filing of the certificate of limited partnership. The annual report shall contain all information required to be included in the certificate of limited partnership.

(b) The fee for filing the annual report shall be \$500 if the report is filed on paper or by facsimile. The fee for filing the annual report electronically shall be \$450.

Section 64. (a) The state secretary may commence a proceeding to dissolve a limited partnership if:

(1) the limited partnership has failed for 2 consecutive years to comply with the laws requiring the filing of annual reports; or

(2) he is satisfied that the limited partnership has become inactive and its dissolution would be in the public interest.

(b) If the state secretary determines that grounds exist under subsection (a), he shall serve the limited partnership with written notice of his determination. The notice shall be sent to the address of the office in the commonwealth required by clause (1) of section 4. If, within 90 days after the notice, the limited partnership fails to correct each ground for dissolution or fails to demonstrate to the reasonable satisfaction of the state secretary that each ground determined by the state secretary does not exist, the state secretary shall administratively dissolve the limited partnership.

(c) A limited partnership administratively dissolved continues in existence but shall not carry on any business except that necessary to wind up and liquidate its affairs.

Section 65. (a) The state secretary may commence a proceeding to revoke the authority of a foreign limited partnership to transact business in the commonwealth if:

(1) the limited partnership has failed for 2 consecutive years to comply with the laws requiring the filing of annual reports; or

(2) he is satisfied that the revocation of the limited partnership's authority to transact business in the commonwealth would be in the public interest.

(b) If the state secretary determines that grounds exist under subsection (a), he shall serve the limited partnership with written notice of his determination. The notice shall be sent to the address of the foreign limited partnership. If, within 90 days after the notice, the limited partnership fails to correct each ground for revocation or fails to demonstrate to the reasonable satisfaction of state secretary that each ground determined by the state secretary does not exist, the state secretary of state shall administratively revoke the authority of the foreign limited partnership to transact business in the commonwealth.

(c) The authority of the foreign limited partnership to transact business in the commonwealth shall cease on the date the state secretary makes such revocation effective.

Section 66. A limited partnership administratively dissolved under section 64 or whose authority to transact business in the commonwealth has been revoked under section 66 may apply to the state secretary for reinstatement at any time. The application for reinstatement shall:

(1) recite the name of the limited partnership and the effective date of its administrative dissolution or revocation;

(2) state that the grounds for dissolution or revocation either did not exist or have been corrected; and

(3) state that the name of the limited partnership satisfies the requirements of section 2; provided, however, that if the state secretary determines that the application contains the full and correct information, he shall reinstate the limited partnership.

**SECTION 52.** Subsection (f) of section 197B of chapter 111 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out paragraph (4) and inserting in place thereof the following 4 paragraphs:-

(4) In addition to any other penalties under this subsection, the director of labor may issue a written warning or a civil citation for violations of this section or regulations under this section. Subsections (c) to (i), inclusive, of section 6F1/2 of chapter 149 shall apply to these citations.

(5) In addition to the cease-work order authority under this section, whenever the department of labor has reason to believe that a person, firm, corporation or other entity is engaging in or is about to engage in a violation of section 197 or this section, or the regulations under those sections, it may bring an action in the name of the commonwealth against that person, firm, corporation or other entity to restrain the violation by temporary restraining order or preliminary or permanent injunction. Subsections (a) and (b) of said section 6F½ of chapter 149 shall apply to these actions.

(6) The director of labor may adopt regulations to carry out this section.

(7) Nothing in this section shall limit the authority of the department of labor and workforce development under chapter 149.

**SECTION 53.** Section 5 of chapter 111K of the General Laws, as so appearing, is hereby amended by striking out clause (h) and inserting in place thereof the following 2 clauses:-

(h) to authorize and make payment of all administrative costs, not to exceed 5 per cent of the monies transferred into the fund in a given fiscal year, related to the management of the program including, but not limited to, costs for staff to manage the program and coordinate the work assigned by the commission and materials development, printing, postage and telephone expenses; provided, however, that administrative costs shall not include staff costs related to case management services, including the evaluation and processing of applications; and

(i) to review and approve annual operating expenses.

**SECTION 54.** The first paragraph of section 46R of chapter 140 of the General Laws, as so appearing, is hereby amended by adding the following 3 sentences:- In addition to the penalties provided for in this paragraph, the commissioner may issue a written warning or a civil citation for violations of these sections. Subsections (c) to (i), inclusive, of section 6F½ of chapter 149 shall apply to these citations. The director of labor may adopt regulations for the issuance of the written warnings and citations and for the enforcement thereof.



**SECTION 55.** Chapter 149 of the General Laws is hereby amended by inserting after section 6F the following section:-

Section 6F½. (a) In addition to the cease and desist authority granted in section 6E and the criminal penalties provided for in section 6F, whenever the commissioner has reason to believe that a person, firm, corporation or other entity is engaging in or is about to engage in a violation of sections 6A to 6E, inclusive, or of any regulations under said sections 6A to 6E, inclusive, he may bring an action in the name of the commonwealth against such person, firm, corporation or other entity to restrain the violation by temporary restraining order or preliminary or permanent injunction. The action may be brought in the superior court of the county in which such person, firm, corporation or other entity resides or has his principal place of business, or the action may be brought in the superior court of Suffolk county with the consent of the parties or if the person, firm, corporation or other entity has no place of business within the commonwealth. If more than 1 person, firm, corporation or other entity is joined as a defendant, the action may be brought in the superior court of the county where any 1 of defendants reside or has his principal place of business, or in Suffolk county. The court may issue temporary restraining orders or preliminary or permanent injunctions.

(b) Any person, firm, corporation or other entity that violates an injunction issued under this section shall be subject to a civil penalty of not more than \$10,000 for each such violation; provided, further, that each day during which a person, firm, corporation or other entity fails to comply with sections 6A to 6E, inclusive, shall be considered a separate violation. For the purposes of this section, the court issuing such an injunction shall retain jurisdiction, and the case shall be continued, and in such case the department may petition for recovery of this civil penalty.

(c) In addition to the remedies under subsections (a) and (b), the commissioner may issue a written warning or a civil citation for violations of this chapter or regulations under this chapter. For each violation, a separate citation may be issued requiring any of the following: that the infraction be rectified or that a civil penalty of not more than \$5,000 for each violation be paid to the commonwealth, within 21 days of the date after issuance of such citation.

(d) In determining the amount of each civil penalty, the department shall include, but not be limited to, the following considerations: the actual and potential impact on public health, safety and welfare and the environment of the failure to comply; whether the person, firm, corporation or other entity being assessed the civil penalty took steps to prevent noncompliance, to promptly come into compliance and to remedy and mitigate whatever harm might have been done as a result of such noncompliance; whether the person, firm, corporation or other entity assessed the civil penalty has previously failed to comply with any regulation, order, license or approval issued or adopted by the department, or any law which the department has authority or responsibility to enforce; deterring future noncompliance; the financial condition of the person, firm, corporation or other entity being assessed the civil penalty; and the public interest.

(e) Notwithstanding this section, the maximum civil penalty that may be imposed upon any person, firm, corporation or other entity who has not previously been either criminally convicted of a violation of this chapter or issued a citation under this chapter, shall be not more than \$2,500, except that in instances in which the commissioner determines that the person, firm, corporation or other entity lacked specific intent to violate this chapter, the maximum civil penalty for the person, firm, corporation or other entity that has not previously been either criminally convicted of a violation of this chapter or issued a citation under this chapter shall be not more than \$1,000.

(f) Upon a failure to comply with the requirements set forth in a citation, the commissioner may order the cessation of all of the relevant activities of the person, firm, corporation or other entity, and shall, within 10 days after such order, schedule a hearing on the suspension or revocation of the license, under this chapter. Any license suspension or revocation under this section shall also apply to all affiliates of the person, firm, corporation or other entity as well as any successor company or corporation that the commissioner upon investigation, determines to not have a true independent existence apart from that of the violating person, firm, corporation or other entity.

(g) Any person, firm, corporation or other entity aggrieved by a citation or order issued pursuant to this section may appeal by filing a notice of appeal with the commissioner within 10 days after the receipt of the citation or order. Chapter 30A shall apply to such appeals.

(h) No officer of any corporation which has failed to pay a civil penalty under this section shall incorporate or serve as an officer of any corporation which did not have a legal existence as of the date that the penalty became due and payable to the commonwealth.

(i) The commissioner may adopt regulations to carry out this section.

**SECTION 56.** Section 4 of chapter 156C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 18 and 19, the word "thirty" and inserting in place thereof, in each instance, the following figure:- 60.

**SECTION 57.** Said chapter 156C is hereby further amended by inserting after section 5 the following section:-

Section 5A. (a) A limited liability company may change its resident agent or the street address of the resident agent by filing a certificate of change of agent or address with the state secretary. The statement shall contain the following information:

- (1) the name of the limited liability company;
- (2) the name and street address of its current resident agent;
- (3) if the current resident agent is to be changed, the name and street address of the new resident agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and
- (4) if the street address of the business office of the resident agent is to be changed, the new street address of the business office of the resident agent.

(b) If a resident agent changes the street address of his business office, he may change the street address of the business office of any limited liability company for which

he is resident agent by notifying the limited liability company in writing of the change and signing, either manually or by facsimile, and delivering to the state secretary for filing a statement of change that complies with the requirements of subsection (a) and recites that the limited liability company has been notified of the change. If the street address of more than 1 limited liability company is being changed at the same time, there may be included in a single certificate the names of all limited liability companies the street addresses of the business offices of which are being changed.

(c) Any resident agent may resign his agency appointment by signing and delivering to the state secretary a certificate of resignation. The resident agent shall furnish a copy of such statement to the limited liability company. The agency appointment shall be terminated on the thirty-first day following the date on which the statement was filed.

**SECTION 58.** Section 12 of said chapter 156C, as so appearing, is hereby amended by striking clause (3) and inserting in place thereof the following clause:-

(3) the name and address of the resident agent for service of process required to be maintained by section 5; provided, however, that the agent's written consent to the appointment shall be either in the certificate or attached to it;.

**SECTION 59.** Section 48 of said chapter 156C, as so appearing, is hereby amended by striking out clause (7) and inserting in place thereof the following clause:-

(7) the name and address of its resident agent and the agent's written consent, either on the certificate or attached to it, to his appointment as agent;.

**SECTION 60.** Said chapter 156C is hereby further amended by striking out section 51 and inserting in place thereof the following section:-

Section 51. Each foreign limited liability company doing business in the commonwealth shall appoint a resident agent as its true and lawful attorney upon whom all lawful process in any action or proceeding against the foreign limited liability company in the commonwealth may be served. Sections 15.07, 15.08 and 15.09 of chapter 156D relative to the appointment and qualifications of a resident agent shall be applicable to the appointment of a resident agent pursuant to this section.

**SECTION 61.** Said chapter 156C is hereby further amended by adding the following 3 sections:-

Section 70. (a) The state secretary may commence a proceeding to dissolve a limited liability company if:

(1) the limited liability company has failed for 2 consecutive years to comply with the laws requiring the filing of annual reports; or

(2) he is satisfied that the limited liability company has become inactive and its dissolution would be in the public interest.

(b) If the state secretary determines that grounds exist under subsection (a), he shall serve the limited liability company with written notice of his determination. The notice shall be sent to the address of the office in the commonwealth required by clause (1) of section 5. If, within 90 days after the notice, the limited liability company fails to correct each ground for dissolution or demonstrates to the reasonable satisfaction of the state secretary that each



ground determined by the state secretary does not exist, the state secretary shall administratively dissolve the limited liability company.

(c) A limited liability company administratively dissolved continues in existence, but shall not carry on any business except that necessary to wind up and liquidate its affairs.

Section 71. A limited liability company administratively dissolved under section 70 or whose authority to transact business in the commonwealth has been revoked under section 72 may apply to the state secretary for reinstatement at any time. The application shall:

(1) recite the name of the limited liability company and the effective date of its administrative dissolution or revocation;

(2) state that the grounds for dissolution or revocation either did not exist or have been corrected;

(3) state that the name of the limited liability company satisfies the requirements of section 3; provided, however, that if the state secretary determines that the application contains the full and correct information, he shall reinstate the limited liability company.

Section 72. (a) The state secretary may commence a proceeding to revoke the authority of a foreign limited liability company to transact business in the commonwealth if:

(1) the limited liability company has failed for 2 consecutive years to comply with the laws requiring the filing of annual reports; or

(2) he is satisfied that the revocation of the limited liability company's authority to transact business in the commonwealth would be in the public interest.

(b) If the state secretary determines that grounds exist under subsection (a), he shall serve the limited liability company with written notice of his determination. The notice shall be sent to the address of the foreign limited liability company. If, within 90 days after the notice, the limited liability company fails to correct each ground for revocation or demonstrates to the reasonable satisfaction of the state secretary that each ground determined by the secretary of state does not exist, the state secretary shall administratively revoke the authority of the foreign limited liability company to transact business in the commonwealth.

(c) The authority of the foreign limited liability company to transact business in the commonwealth shall cease on the date on which the state secretary makes such revocation effective.

**SECTION 62.** Section 9 of chapter 161A of the General Laws, as so appearing, is hereby amended by inserting after the word "assessment", in lines 25 and 26, the following words:- ; and provided further, that the amount credited shall be the most recently audited regional transit authority assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal year's estimated cherry sheet assessments.

**SECTION 63.** The second paragraph of section 9 of chapter 161B of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Amounts assessed under this section shall be the most recently audited regional transit authority assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal year's estimated cherry sheet assessments.

**SECTION 64.** The last paragraph of section 9A of said chapter 161B of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Amounts assessed under this section shall be the most recently audited regional transit authority assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal year's estimated cherry sheet assessments.

**SECTION 65.** Section 10 of said chapter 161B, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

If at any time any principal or interest is due or about to come due on any note issued by the authority pursuant to this section and funds to pay the same are not available, the administrator shall certify to the state treasurer the amount required to meet the obligation and the commonwealth shall thereupon pay over to the authority that amount. If the commonwealth shall not make the payment within a reasonable time, the authority or any holder of an unpaid note issued by the authority pursuant to this section, acting in the name and on behalf of the authority, shall have the right to require the commonwealth to pay the authority the amount remaining unpaid, which right shall be enforceable as a claim against the commonwealth. The authority or any holder of an unpaid note issued pursuant to this section may file a petition in the superior court to enforce a claim or intervene in any proceeding already commenced to enforce such a claim. Chapter 258 shall apply to the petition insofar as it relates to the enforcement of a claim against the commonwealth. Any holder of an unpaid note who shall have filed such a petition may apply for an order of the court requiring the authority to apply funds received by the authority on its claim against the commonwealth to the payment of the holder's unpaid note, and, if the court finds such amount to be due to the holder, shall issue the order.

**SECTION 66.** Section 12 of chapter 161B of the General Laws, as so appearing, is hereby amended by inserting the following paragraph:-

A copy of each biennial audit shall be provided to the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on bonding, capital expenditures and state assets.

**SECTION 67.** Chapter 175 of the General Laws is hereby amended by striking out, as so appearing, section 195 and inserting in place thereof the following section:-

Section 195. (a) Sums for the estimated expenses for the purposes specified in subsection (b) shall be paid to the commonwealth by insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth within 30 days after notice from the commissioner of such estimated expenses. The commissioner shall apportion such estimated charges among all such companies and shall assess them for the same on a fair and reasonable basis. The commissioner shall subsequently apportion actual costs among all such companies and shall make assessment adjustments for the same for any variation between estimated and actual costs on a fair and reasonable basis. Such estimated and actual costs shall include an amount equal to the cost of fringe benefits as established by the secretary of administration and finance under section 6B of chapter 29.

(b) The costs to be paid under subsection (a) shall be for the following purposes: (1) the operation of state fire training facilities and curriculum for firefighting personnel; (2) implementing sections 26G1/2 and 34A to 34D, inclusive, of chapter 148, and chapter 304 of the acts of 2004; (3) student awareness of fire education programs; (4) the firefighting equipment grant program; and (5) capital improvements to state fire service facilities, including reimbursing the General Fund for debt service on bonds issued to pay for these capital improvements.

**SECTION 68.** Section 6 of chapter 211A of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word “three” the first time it appears and inserting in place thereof the following figure:- 4.

**SECTION 69.** Section 11 of chapter 211D of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the word “is” and inserting in place thereof the following words:- , except any counsel appointed or assigned to represent indigents within the private counsel division in a homicide case, shall be.

**SECTION 70.** Section 37 of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out the eighth sentence.

**SECTION 71.** Section 93 of said chapter 221, as so appearing, is hereby amended by striking out, in line 8, the figure “78.27” and inserting in place thereof the following figure:- 82.50.

**SECTION 72.** Section 94 of said chapter 221, as so appearing, is hereby amended by striking out, in line 16, the figure “78.27” and inserting in place thereof the following figure:- 82.50.

**SECTION 73.** Chapter 252 of the General Laws is hereby amended by inserting after section 14C the following section:-

Section 14D. Mosquito control projects and mosquito control districts shall have sole authority in all personnel decisions including, but not limited to, the following: the hiring and firing of personnel; the establishment of rates of compensation for personnel representative of the regional economy; and the hiring of appropriate outside professionals deemed necessary to carry out and fulfill statutory obligations.

**SECTION 74.** Chapter 262 of the General Laws is hereby amended by striking out section 38 and inserting in place thereof the following section:-

Section 38. Except as otherwise provided, the fees of the registers of deeds to be paid when an instrument is recorded shall be as follows:

For entering and recording any paper, certifying the same on the original, and indexing it and all other duties pertaining thereto, \$50; provided, however, that if the paper includes multiple references to a document or instrument intending or attempting to assign, discharge, release, partially release, subordinate or notice any other document or instrument, each reference shall be separately indexed and separately assessed an additional \$50 fee;

For recording a declaration of trust, \$200;

For recording a deed or conveyance, \$100;



For recording a mortgage, \$150;

For recording a declaration of homestead, \$30;

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

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

Except as otherwise provided, the fees of the registers of deeds to be paid when the instrument is recorded shall be subject to a surcharge under section 8 of chapter 44B.

**SECTION 75.** Chapter 278 of the General Laws is hereby amended by inserting after section 28C the following section:-

Section 28D½. The clerk of the appellate division shall receive from the commonwealth as salary an amount equal to 10 per cent of, and in addition to, the salary established and paid to said clerk of the superior court for criminal business in the county of Suffolk.

**SECTION 76.** Section 44 of chapter 85 of the acts of 1994, as most recently amended by section 19 of chapter 23 of the acts of 2002, is hereby further amended by inserting after the words "Mount Greylock state reservation" the following words:- , Whitehead House at Willowdale state forest, Kerighan House at Bradley Palmer state park.

**SECTION 77.** Chapter 137 of the acts of 2003, as amended by section 2 of chapter 77 of acts of 2005, is hereby further amended by striking out section 21 and inserting in place thereof the following section:-

Section 21. Section 1 shall expire on September 11, 2011. Sections 2 and 3 shall expire on September 11, 2005.

**SECTION 78.** Section 417 of chapter 149 of the acts of 2004, is hereby amended by striking out, in line 2, the figure "2009", inserted by section 82 of chapter 139 of the acts of 2006, and inserting in place thereof the following figure:- 2011.

**SECTION 79.** Chapter 58 of the acts of 2006 is hereby amended by striking out section 128, as amended by section 40 of chapter 61 of the acts of 2007, and inserting in place thereof the following section:-

Section 128. Notwithstanding any general or special law to the contrary and in accordance with section 13B of chapter 118E of the General Laws, in fiscal year 2007, \$90,000,000 shall be made available from the Commonwealth Care Trust Fund, established pursuant to section 2000 of chapter 29 of the General Laws, to pay for an increase in the Medicaid rates paid to acute hospitals and physicians; but not less than 15 per cent of the increase shall be allocated to rate increases for physicians. For fiscal year 2008, an additional \$90,000,000, for a total of \$180,000,000, shall be made available from said Commonwealth Care Trust Fund in accordance with this section, to pay for an increase in the Medicaid rates paid to acute hospitals and physicians; but not less than 15 per cent of the increase shall be allocated to rate increases for physicians. In fiscal year 2009, an additional \$90,000,000, for a total of \$270,000,000, shall be made available from said Commonwealth Care Trust Fund to pay for an increase in the Medicaid rates paid to acute hospitals, as defined in section 1

of chapter 118G of the General Laws, and physicians; but not less than 15 per cent of the increase shall be allocated to rate increases for physicians. In fiscal year 2008, not more than \$20,000,000 of the amounts to be made available to acute hospitals under this section shall be contingent on hospital adherence to quality standards and achievement of performance benchmarks, including the reduction of racial and ethnic disparities in the provision of health care, in accordance with said section 13B of said chapter 118E, and may be paid in fiscal year 2009. In fiscal year 2009, not more than \$58,000,000 of the amounts to be made available to acute hospitals under this section shall be contingent on hospital adherence to quality standards and achievement of performance benchmarks, including the reduction of racial and ethnic disparities in the provision of health care, in accordance with said section 13B of said chapter 118E, and may be paid in fiscal year 2010. For fiscal years 2008 and 2009, any such performance benchmarks shall be determined by the secretary of health and human services without any limitation, but in consultation with hospitals, the MassHealth payment policy advisory board and the health care quality and cost council, and may include measures to be reported by hospitals to the federal Centers for Medicare and Medicaid Services for Reporting Hospital Quality Data for Annual Payment Update, to the Joint Commission on Accreditation of Healthcare Organizations for core measures, or to the MassHealth Program pursuant to Appendix G of the contract between MassHealth and acute hospitals for Rate Year 2007 or other nationally-recognized measures that are drawn on those approved by the National Quality Forum and adopted by the Hospitals Quality Alliance Performance benchmarks and quality measures related to racial and ethnic disparities in the provision of health care. The secretary of health and human services shall, after consultation required by said section 13B of said chapter 118E, issue final quality standards and performance benchmarks for use in the hospital fiscal year beginning October 1, 2008. For purposes of payments to hospitals pursuant to this section, "fiscal year" shall mean the hospitals' fiscal year and, for purposes of any payments to physicians pursuant to this section, fiscal year shall mean the state fiscal year.

**SECTION 80.** Section 117 of chapter 123 of the acts of 2006 is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The commission shall file its recommendations, together with recommendations for legislation, if any, with the house and senate clerks who shall forward the same to the general court not later than 3 years after the passage of this act.

**SECTION 81.** Notwithstanding any general or special law to the contrary, section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2009.

**SECTION 82.** Notwithstanding any general or special law to the contrary, the comptroller shall, not later than June 30, 2009, transfer \$310,000,000 to the General Fund from the Commonwealth Stabilization Fund, but the comptroller shall instead transfer a lesser amount if the secretary of administration and finance so requests in writing.

**SECTION 83.** Notwithstanding any general or special law to the contrary, during fiscal year 2009 the comptroller shall not transfer 0.5 per cent of the total revenue from taxes in the preceding fiscal year to the Commonwealth Stabilization Fund, established pursuant

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to section 2H of chapter 29 of the General Laws, as otherwise required pursuant to clause (a) of section 5C of said chapter 29.

**SECTION 84.** Notwithstanding any general or special law to the contrary, the comptroller shall, no later than June 30, 2009, transfer the interest earned from the Commonwealth Stabilization Fund during fiscal year 2009 to the General Fund.

**SECTION 85.** Notwithstanding any general or special law to the contrary, during fiscal year 2009, the comptroller shall transfer from the Health Care Security Trust, established pursuant to section 1 of 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 2009 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378 and 100 per cent of the earnings generated in fiscal year 2009 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 86.** Notwithstanding any general or special law to the contrary, during fiscal year 2009, the comptroller shall, according to a schedule developed in consultation with the state treasurer and the secretary of administration and finance, transfer \$372,000,000 from the General Fund to the State Retiree Benefits Trust Fund, established by section 24 of chapter 32A of the General Laws.

**SECTION 87.** Notwithstanding any general or special law to the contrary, on or before October 1, 2008 and without further appropriation, the comptroller shall transfer \$25,000,000 from the General Fund to the e-Health Institute Fund, established in section 10 of this act.

**SECTION 88.** (a) Notwithstanding any general or special law to the contrary, on or before October 1, 2008 and without further appropriation, the comptroller shall transfer from the General Fund to the Health Safety Net Trust Fund, established pursuant to section 36 of chapter 118G of the General Laws and in this subsection referred to as the fund, the greater of \$45,000,000 or one-twelfth of the total expenditures to hospitals and community health centers required pursuant to subsection (b), for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2008. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of their gross liability to the fund. The comptroller shall transfer from the fund to the General Fund not later than June 30, 2009, the amount of the transfer authorized by this subsection and any allocation thereof as certified by the director of the health safety net office.

(b) Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the state treasurer, the secretary of administration and finance and the secretary of health and human services, develop a schedule for transferring funds among the General Fund, the Commonwealth Care Trust Fund established pursuant to section 2000



of chapter 29 of the General Laws, and the Health Safety Net Trust Fund established pursuant to section 36 of chapter 118G of the General Laws. Not less than \$1,117,561,456 shall be transferred from the General Fund to the Commonwealth Care Trust Fund and not less than \$62,996,382 shall be transferred from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund. The hospital fiscal year 2009 payment amount to each hospital shall be funded by the Health Safety Net Trust Fund. Payments may be made either as safety net care payments under the Commonwealth's 1115 waiver, or as an adjustment to Title XIX service rate payments, or a combination thereof. The executive office of health and human services and the health safety net office may use other federally permissible funding mechanisms available for public service hospitals, as defined in 114.1 CMR 36.02, to reimburse up to \$70,000,000 of uncompensated care at the hospitals using sources distinct from the funding made available to the Health Safety Net Trust Fund. The executive office of health and human services shall make expenditures required for fiscal year 2009 under section 122 of chapter 58 of the acts of 2006. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of these funds. The transfers shall not begin before July 1, 2008 and shall be completed on or before June 30, 2009. The secretary of administration and finance, in consultation with the secretary of health and human services and the executive director of the commonwealth health insurance connector, shall on a quarterly basis evaluate the revenue needs of the health safety net program funded by the Health Safety Net Trust Fund and the Commonwealth Care subsidized health insurance program funded from the Commonwealth Care Trust Fund, and if necessary, transfer monies between these funds for the purpose of ensuring that sufficient revenues are available to support projected program expenditures. The secretary of health and human services in consultation with the secretary of administration and finance and the executive director of the commonwealth health insurance connector shall submit a quarterly report to the house and senate committees on ways and means and joint committee on healthcare financing which shall include, but not be limited to, the projected and actual expenditures and revenues for the Commonwealth Care Trust Fund and any transfers made between the Health Safety Net Trust Fund and the Commonwealth Care Trust Fund.

(c) Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the office of the state treasurer, the executive office of administration and finance and the executive office of health and human services, develop a schedule and make a series of transfers not to exceed \$346,000,000 from the General Fund to the MassHealth provider payment account in the Medical Assistance Trust Fund, established pursuant to section 2QQQ of chapter 29 of the General Laws, if the comptroller has determined that General Fund revenues are sufficient to accommodate the schedule of transfers. These funds may be expended only for services provided during state or federal fiscal year 2009, and no amounts previously or subsequently transferred into the Medical Assistance Trust Fund may be expended on payments described in the 1115 demonstration waiver for services provided during state fiscal year 2009 or payments described in the state plan for services provided during federal fiscal year 2009. All payments from the Medical

Assistance Trust Fund shall be subject to the availability of federal financial participation, shall be made only in accordance with federally-approved payment methods, shall be consistent with federal funding requirements and all federal payment limits as determined by the secretary of health and human services, and shall be subject to the terms and conditions of an agreement with the executive office of health and human services. Any increase in payment made from the trust fund totaling an amount greater than \$251,000,000 in fiscal year 2009 shall be made only after the secretary of health and human services certifies that any increase in payments from the trust fund shall not exceed the negotiated limit for section 1115 waiver spending. The secretary of health and human services shall notify, in writing, the house and senate committees on ways and means and the house and the joint committee on healthcare financing for any increases in payments within 15 days.

The secretary of the executive office of health and human services shall make a payment of up to \$148,000,000 from the Medical Assistance Trust Fund to the Cambridge public health commission's hospital network for dates of service in state and federal fiscal year 2009 only after the Cambridge public health commission transfers up to \$74,000,000 of its funds to the Medical Assistance Trust Fund, using a federally permissible source of funds which shall fully satisfy the non-federal share of such payment.

(d) Notwithstanding any general or special law to the contrary, the comptroller, in consultation with the secretary of health and human services, shall develop a schedule for transferring not less than \$25,000,000 from the General Fund to the Essential Community Provider Trust Fund, established in section 2PPP of chapter 29 of the General Laws, for the purpose of making expenditures as described in this section in fiscal year 2009. The secretary shall authorize expenditures from the fund without further appropriation to improve and enhance the ability of hospitals and community health centers to serve populations in need, more efficiently and effectively, including, but not limited to, the ability to provide community-based care, clinical support, care coordination services, disease management services, primary care services and pharmacy management services. The office shall consider applications from acute hospitals, non-acute hospitals, and community health centers; provided, however, that the office shall publicize the existence of the program to eligible providers. The eligibility criteria for providers to receive funds shall include, but not be limited to, the following: (i) financial performance measures including negative operating margins, insufficient cash flow, technical bond default and the uncertain ability to cover long-term obligations, as well as potential for loss of critical community services; (ii) the percentage of patients with mental or substance abuse disorders served by a provider; (iii) the numbers of patients served by a provider who are chronically ill, elderly, or disabled, provided that in the case of a community health center, that preference be given to the provision of a program of all-inclusive care for the elderly; (iv) the payer mix of the provider, with preference given to acute hospitals where a minimum of 63 per cent of the acute hospital's gross patient service revenue is attributable to Title XVIII and Title XIX of the federal Social Security Act or other governmental payors, including reimbursements from the Health Safety Net Trust Fund; (v) the percentage of total annual operating revenue that

received funding in fiscal years 2005 and 2006 from the Distressed Provider Expendable Trust Fund comprised for the provider; (vi) the percentage of total annual operating revenue that received funding in fiscal year 2008 from the Essential Community Provider Trust Fund, established in section 2PPP of chapter 29 of the General Laws; (vii) the cultural and linguistic challenges presented by the populations served by the provider; (viii) a documented critical need for investment in information technology such as computerized physician order entry systems but without access to capital to finance such investments; and (ix) the provision by a community health center of 24 hour emergency services. The secretary may further authorize distributions on an emergency basis to acute hospitals, non-acute hospitals and community health centers facing extreme financial distress or closure upon petition from the provider. The emergency funds shall be distributed by the secretary within 14 days of petition by a provider that is determined to be facing extreme financial distress or closure at an amount determined by the secretary. The executive office of health and human services shall structure expenditures under this section to maximize allowable federal reimbursement under Title XIX. The secretary of health and human services shall file with the house and senate committees on ways and means on or before September 15, 2008, a distribution plan for the funds, and the extent to which expenditures qualify for federal financial participation. The maximum expenditure from this fund shall not exceed \$37,500,000. Any additional funds shall be deposited in the General Fund.

**SECTION 89.** Notwithstanding any general or special law to the contrary, after complying with clause (a) of section 5C of chapter 29 of the General Laws the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2008 as follows: (1) if the consolidated net surplus is \$25,000,000 or less, the comptroller shall transfer said amount to the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws; or (2) if the consolidated net surplus is \$34,000,000 or greater, the comptroller shall transfer said amount as follows: (a) \$25,000,000 shall be transferred to the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws, (b) \$3,000,000 shall be transferred to the Workforce Competitiveness Trust Fund, established in section 2WWW of chapter 29; (c) \$2,000,000 shall be transferred to the Massachusetts Science, Technology, Engineering, and Mathematics Grant Fund established in section 2MMM of chapter 29; (d) \$4,000,000 shall be transferred to the Endowment Incentive Holding Fund established in section 7 of this act; provided, however, that \$2,000,000 from said Endowment Incentive Holding Fund shall be allocated to University of Massachusetts campuses; provided further, that \$1,000,000 from said Endowment Incentive Holding Fund shall be allocated to state college campuses; and provided further, that \$1,000,000 from said Endowment Incentive Holding Fund shall be allocated to community college campuses; and (e) any amount remaining after the transfers pursuant to clause (a) through (d), inclusive, shall be transferred to the Commonwealth Stabilization Fund established pursuant to section 2H of chapter 29 of the General Laws. If the amount remaining after the designations in said clause (a) of said section 5C of said chapter 29 of the General Laws is greater than \$25,000,000 but less than



\$34,000,000, then after making the transfer required in clause (a), the comptroller shall proportionately reduce the transfers required in clauses (b), (c) and (d); and provided further, that allocations from the Endowment Incentive Holding Fund pursuant to clause (d) shall also be proportionately reduced.

(b) All transfers specified in 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.

**SECTION 90.** Notwithstanding any general or special law to the contrary, within 10 days of a transfer to the Massachusetts Life Sciences Investment Fund pursuant to section 89 the Massachusetts Life Sciences Investment Fund shall transfer \$3,400,000 to the Massachusetts Science, Technology, Engineering and Mathematics Grant Fund established pursuant to section 2MMM of chapter 29 of the General Laws.

**SECTION 91.** Notwithstanding any general or special law to the contrary, within 10 days of a transfer to the Massachusetts Life Sciences Investment Fund pursuant to section 89 the Massachusetts Life Sciences Investment Fund shall transfer \$9,100,000 to the Massachusetts Life Sciences Holding Fund established pursuant to section 92.

**SECTION 92.** There shall be established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Life Sciences Holding Fund. Expenditures from the Massachusetts Life Sciences Holding Fund shall be subject to appropriation.

**SECTION 93.** Notwithstanding any general or special law to the contrary and in order to maintain the fiscal viability of the subsidized catastrophic prescription drug insurance program, hereinafter referred to as the "prescription advantage program", authorized by section 39 of chapter 19A of the General Laws, cost-sharing required of enrollees in the form of co-payments, premiums and deductibles, or any combination thereof, may be adjusted by the department of elder affairs to reflect price trends for outpatient prescription drugs, as determined by the secretary of elder affairs. The secretary shall not implement such cost sharing increases required of enrollees in the form of co-payments, premiums and deductibles or any combination thereof, unless the executive office has given 90 days notice to the general court. 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 shall also be enrolled in a Medicare prescription drug plan, a Medicare Advantage prescription drug plan or in a plan which provides creditable prescription drug coverage as defined in section 104 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, hereinafter referred to as "MMA," and which provides coverage of the cost of prescription drugs actuarially equal to or better than that provided by Medicare Part D, hereinafter referred to as a "creditable coverage" plan. 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, provided under the MMA Subpart P - Premiums and cost-sharing subsidies for low-income individuals, shall apply for such 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 prescription drug plan or for the low-income subsidy provided under MMA and may receive information about the member's eligibility and enrollment status necessary for the operation of the prescription advantage program. For enrollees who qualify for enrollment in a Medicare Part D plan, the prescription advantage program will 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 pursuant to said section 39 of said chapter 19A. The prescription advantage program will provide supplemental assistance for premiums, deductibles, payments and co-payments required by a Medicare prescription drug plan or Medicare Advantage prescription drug plan and will provide supplemental assistance for deductibles, payments and co-payments required by a creditable coverage plan. The department 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' Medicare prescription drug plan, Medicare Advantage prescription drug plan or creditable coverage plan. 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, an individual shall have a household income of less than 500 per cent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). Residents of the commonwealth who are not eligible for Medicare shall continue to be eligible for the prescription advantage program pursuant to said section 39 of said chapter 19A.

**SECTION 94.** Notwithstanding any general or special law to the contrary, not less than 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from the General Fund to the District Local Technical Assistance Fund, established in section 2XXX of chapter 29 of the General Laws.

**SECTION 95.** Notwithstanding any general or special law to the contrary, not less than 10 days after the effective date of this act, the comptroller shall transfer \$6,500,000 from the General Fund to the Massachusetts Cultural Facilities Fund, established in section 42 of chapter 23G of the General Laws.

**SECTION 96.** Notwithstanding clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws, or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2009, transfer funds from any item of appropriation within the trial court, except items 0339-1001, 0339-1003 and 0339-1004, to any other item of appropriation within the trial court, except items 0339-1001, 0339-1003 and 0339-1004. These transfers shall be made in accordance with schedules submitted to the house and senate committees

on ways and means. The schedule shall include the following: (1) the amount of money transferred from 1 item of appropriation to another; (2) the reason for the necessity of the transfer; and (3) the date on which the transfer is to be completed. A transfer under this section shall not occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means.

**SECTION 97.** Notwithstanding any general or special law to the contrary, every vending machine operator or retailer, as defined in section 1 of chapter 64C of the General Laws, or any other licensee, as prescribed by the commissioner of revenue, who, at the commencement of business on the effective date of this section, has on hand any cigars or smoking tobacco for sale, shall make and file with the commissioner of revenue within 20 days thereafter a return, subscribed under the penalties of perjury, showing a complete inventory of such cigars and smoking tobacco, and shall, at the time he is required to file such return, pay the excise due on any cigars and smoking tobacco on which he has not previously remitted the excise to the commissioner of revenue. All provisions of chapters 62C and 64C of the General Laws relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall, so far as pertinent, apply to the excise imposed by this section.

**SECTION 98.** Notwithstanding any general or special law to the contrary, in hospital fiscal year 2009, the office of the inspector general may continue to expend funds appropriated pursuant to section 1 of chapter 240 of the acts of 2004 from the Uncompensated Care Trust Fund, or any successor 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 all Massachusetts' hospitals including, but not limited to, 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, 2009. For the purposes of said audits, allowable free care services shall be defined pursuant to chapter 118G of the General Laws and any regulations promulgated pursuant thereto.

**SECTION 99.** Notwithstanding any general or special law to the contrary, the amounts transferred pursuant to paragraph (1) of section 22C of chapter 32 of the General Laws shall be made available for the Commonwealth's Pension Liability Fund established pursuant to section 22 of said chapter 32. The amounts transferred pursuant to said paragraph (1) of said section 22C of said chapter 32 shall meet the commonwealth's obligations pursuant to said 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 said section 102 of said chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. The state board of retirement and each city, town, county and district shall verify these costs, subject to the rules adopted



by the treasurer. The treasurer may make payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers, 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 also 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 clause (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All payments for the purposes described in this section shall be made only pursuant to distribution of monies from the fund, and any 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 this distribution. Distributions shall not be made in advance of the date on which a payment is actually to be made. The state board of retirement may expend an amount for the purposes of the board of higher education's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to paragraph (1) of section 22C of said chapter 32 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 100.** (a) Notwithstanding any general or special law to the contrary, 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, 2009. Based on the criteria established 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 on or before October 1, 2008 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, 2009 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, 2008 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 two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(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 pursuant to 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 pursuant to this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2009 pursuant to 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 pursuant to this section.

(j) The department of revenue and the department of education shall issue guidelines for their respective duties pursuant to this section.

**SECTION 101.** 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.

**SECTION 102.** Notwithstanding any general or special law to the contrary, the executive office of health and human services under 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 as the principal agency for all of the agencies within the executive office, and other federally assisted programs administered by the executive office, may enter into interdepartmental services agreements with the University of Massachusetts medical school to perform activities that the secretary, in consultation with the comptroller, determines are appropriate and within the scope of the proper administration of Title XIX and other federal funding provisions to support the programs and activities of the executive office. These activities shall include: (1) providing 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) providing consulting services related to quality assurance, program evaluation and development, integrity and soundness and project management; and (3) providing 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 the university provides under these interdepartmental service agreements or other contracts with the executive office of health and human services shall be distributed to the university, and recorded distinctly in the state accounting system. 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 certify these fees and pay them upon the receipt of this revenue, reimbursement or demonstration of costs avoided. Contracts for contingency fees shall not extend longer than 3 years, and shall not be renewed without prior review and approval from the executive office of administration and finance. The secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2009. The secretary of health and human services shall submit to the secretary of administration and finance and the senate and house 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 the university collected.

**SECTION 103.** (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation may, using such competitive proposal process as the division deems necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years with 1 or more operators, for the Ponkapoag golf course in the town of Canton so as to provide for the continued use, operation, main-



tenance, repair and improvement of the golf courses, practice greens, driving range, restaurant or any other structure and associated lands which constitute the facilities of the Ponkapoag golf course, hereinafter referred to as the golf course; provided, however, that the division of capital asset management and maintenance, in consultation with the department of conservation and recreation shall prefer any proposal submitted by the town of Canton, or by a non-profit organization within the town of Canton, which complies with the requirements of this section; and provided further, that the division of capital asset management and maintenance shall provide the town of Canton no less than 180 days to determine whether said town shall submit a proposal prior to soliciting proposals pursuant to subsection (b); and provided further, that if said town of Canton executes a lease of the golf course pursuant to this section it shall not assign or otherwise transfer the lease to any third party.

There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional 5 years. Such 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 commonwealth. All leases shall contain a provision that requires 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 golf course or on the land of the golf course during the term of the lease.

Such lease and other agreements shall be on terms acceptable to the commissioner of the division 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. Any such lease or other arrangement shall stipulate that any required capital improvements to the golf courses, practice greens, driving range, restaurant or any other structure or associated lands which constitute the facilities of the golf course shall be made by the lessee and shall include a description of the required capital improvements and without limitation performance specifications. Said lease and other agreement shall provide that any benefits to the commonwealth and the costs of improvements and repairs made to the properties by the lessee shall be taken into account as part of the consideration for such leases or other agreements. All consideration received from the leases or other agreements executed pursuant to this section shall be payable to the department of conservation and recreation for deposit into the General Fund.

(b) If no lease agreement is reached with the town of Canton pursuant to subsection (a) and not before April 1, 2009, 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 recreational facilities 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) a residential, senior citizen and children discount program; (4) reservation policies; (5) proposed reasonable rates that will ensure continued public access; (6) required financial audits; (7) policies to encourage use of the golf course by persons of all races and nationalities; (8) safety and security plans; (9) seasonal opening and closing dates; (10) hours of operation; (11) holiday recognition; (12) grievance processes; (13) clubhouse license; (14) a provision that the facility shall be maintained as a 36 hole public golf course; (15) a provision that lessee shall not construct any facilities on the grounds of the golf course or any property appurtenant thereto; provided, however, that said lessee may construct facilities incidental to the operation of a golf course with the written approval of the commissioner of the department of conservation and recreation; (16) a provision that the town of Canton shall receive compensation from the lessee in an amount equal to or greater than the amount said town would receive in property taxes if the golf course were taxed as a commercial property as may be determined by the board of assessors of the town of Canton. Any increase in fees including fees for season passes, and any increase in charges for greens fees, golf cart or club rentals shall be approved in writing by the commissioner of the department of conservation and recreation; provided, however, that in considering any request for an increase in fees, the commissioner shall consider without limitation: (i) any capital investment made by the contractor or lessee; (ii) the fees and charges at other public golf courses within reasonable proximity; and (iii) the length of time since the last fee increase.

It shall be a mandatory term of any request for proposals issued by the division of capital asset management and maintenance and of any contract entered into by the commonwealth with any party that any party which has entered into a contract pursuant to this section with the commonwealth shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the golf course and to preserve the safety and environmental conditions of said golf course, that all employees currently working on the operation and maintenance of the golf course be offered employment by any party entering into a contract pursuant to this section. Upon the execution of any agreements authorized by this section, the department of conservation and recreation shall reassign or relocate those employees who do not accept employment with the lessee, to comparable positions within the department subject to applicable collective bargaining agreements.

(c) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any party leasing the golf course pursuant to this section.

(d) Notwithstanding any general or special law to the contrary, the inspector general shall review and approve any lease executed pursuant to this section and the review shall include an examination of the methodology utilized for establishing a lease price. Within 30 days of receiving the lease, the inspector general shall prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance. Within 15 days of receiving the inspector general's report, the commissioner shall



submit such report to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets but no later than 15 days before the execution of any agreement or other document relating to the lease.

(e) Notwithstanding any general or special law to the contrary, the lessee shall be responsible for all costs and expenses, including but not limited to, costs associated with any engineering, surveys, appraisals, and document preparation related to the contracts and leases authorized pursuant to this section as such costs may be determined by the commissioner of the division of capital asset management and maintenance. Upon conveyance of the parcel, the lessee shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the golf course.

(f) The division of capital asset management and maintenance and the department of conservation and recreation shall report on the results of any requests for proposals and any subsequent leases executed as a result of this section. The report shall include, but not be limited to: the time required to conduct the request for proposals process; the quality and characteristics of the bids received in response to the request; the criteria used to identify successful bidders; the dates of any executed leases; any service changes resulting from executed leases; any increase or decrease in the length of the season of operations for the golf course; the capital improvements that have been completed, are under construction or are planned by the lessee; and the revenue generated by any executed leases. The report shall be submitted to the clerks of the house and senate and to the house and senate committees on ways and means no later than February 1, 2009.

**SECTION 104.** Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation, may using such competitive proposal process as the division deems necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years, with 1 or more operators, for the Blue Hills observatory and science center in the town of Canton so as to provide for the continued use, operation, maintenance, repair and improvement of such state-owned recreational facility together with the land and appurtenances associated thereto.

There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional 5 years. Such 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 commonwealth. All leases shall contain a provision that requires 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 observatory or on the land of the observatory during the term of the lease.

Such lease and other agreements shall be on terms acceptable to the commissioner of the division 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. Any such lease or other arrangement requiring capital improvements to be made to any buildings or surface areas shall include a description of the required capital improvements and, at a minimum, performance specifications. Such lease and other agreement shall provide that any benefits to the commonwealth and the costs of improvements and repairs made to the properties provided by the lessee shall be taken into account as part of the consideration for such leases or other agreements. All consideration received from the leases or other agreements shall be payable to the department of conservation and recreation for deposit into the General Fund.

(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 recreational facilities 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) a residential discount program, (4) reservation policies, (5) proposed reasonable rates that will ensure continued public access, (6) required financial audits, (7) policies to encourage use of the observatory by persons of all races and nationalities, (8) safety and security plans, (9) seasonal opening and closing dates, and (10) hours of operation.

The division, in consultation with the department, when evaluating proposals that are otherwise comparable, shall prefer any proposal submitted by the town of Canton, or by a non-profit organization in the town of Canton; provided, however, that the proposal complies with the guidelines outlined above.

(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 section that any party which has entered into a contract pursuant to this section with the commonwealth shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the observatory and to preserve the safety and environmental conditions of the observatory, that all employees currently working on the operation and maintenance of the observatory be offered employment by any party entering into a contract pursuant to this section. Upon the execution of any agreements authorized by this section, 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) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any selected offeror which is awarded a contract pursuant to this section, except as provided in this section.

(e) Notwithstanding any general or special law to the contrary, the inspector general

shall review and approve a lease executed pursuant to this section and the review shall include an examination of the methodology utilized for establishing a lease price. Within 30 days of receiving the lease, the inspector general shall prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance. Within 15 days of receiving the inspector general's report, the commissioner shall submit such report to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets not later than 15 days before the execution of any agreement or other document relating to the lease.

(f) Notwithstanding any general or special law to the contrary, lessor shall be responsible for all costs and expenses, including but not limited to, costs associated with any engineering, surveys, appraisals, and deed preparation related to the transfers and conveyances authorized pursuant to this section as such costs may be determined by the commissioner of the division of capital asset management and maintenance. Upon conveyance of the parcel, the lessor shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel.

(g) The division and the department shall report on the results of any requests for proposals and subsequent lease executed as a result of this section. The report shall include, but not be limited to, the following: the time required to conduct the request for proposals process; the quality and characteristics of the bids received in response to the request; the criteria used to identify successful bidders; the dates of any executed leases; any service changes resulting from executed leases; any increase or decrease in the length of the season of operations for the observatory; the capital improvements that have been completed, are under construction or are planned for construction; and the monetary results of any executed leases. The report shall be submitted to the clerks of the house and senate and to the house and senate committees on ways and means no later than February 1, 2009.

**SECTION 105.** (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation may, using such competitive proposal process as the division deems necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years, with 1 or more operators, for the Blue Hills ski area in the town of Canton so as to provide for the continued use, operation, maintenance, repair and improvement of such state-owned recreational facility together with the land and appurtenances associated thereto.

There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional 5 years. Such 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 commonwealth. All leases shall contain a provision that requires 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 observatory or on the land of the observatory during the term of the lease.

Such lease and other agreements shall be on terms acceptable to the commissioner of the division 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. Any such lease or other arrangement requiring capital improvements to be made to any buildings or surface areas shall include a description of the required capital improvements and, at a minimum, performance specifications. Such lease and other agreement shall provide that any benefits to the commonwealth and the costs of improvements and repairs made to the properties provided by the lessee shall be taken into account as part of the consideration for such leases or other agreements. All consideration received from the leases or other agreements shall be payable to the department of conservation and recreation for deposit into the General Fund.

(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 recreational facilities 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) a residential discount program; (4) reservation policies; (5) proposed reasonable rates that will ensure continued public access; (6) required financial audits; (7) policies to encourage use of the ski area by persons of all races and nationalities; (8) safety and security plans; (9) seasonal opening and closing dates; and (10) hours of operation.

The division, in consultation with the department, when evaluating proposals that are otherwise comparable, shall prefer any proposal submitted by the town of Canton, or by a non profit organization in the town of Canton; provided, however, that the proposal complies with the guidelines outlined above.

(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 section that any party which has entered into a contract pursuant to this section with the commonwealth shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the ski area and to preserve the safety and environmental conditions of the ski area, that all employees currently working on the operation and maintenance of the ski area be offered employment by any party entering into a contract pursuant to this section. Upon the execution of any agreements authorized by this section, 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) The provisions of any general or special law or rule or regulation relating to the



advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any selected offeror which is awarded a contract pursuant to this section, except as provided in this section.

(e) Notwithstanding any general or special law to the contrary, the inspector general shall review and approve a lease executed pursuant to this section and the review shall include an examination of the methodology utilized for establishing a lease price. Within 30 days of receiving the lease, the inspector general shall prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance. Within 15 days of receiving the inspector general's report, the commissioner shall submit such report to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets but no later than 15 days before the execution of any agreement or other document relating to the lease.

(f) Notwithstanding any general or special law to the contrary, lessor shall be responsible for all costs and expenses, including but not limited to, costs associated with any engineering, surveys, appraisals, and deed preparation related to the transfers and conveyances authorized pursuant to this section as such costs may be determined by the commissioner of the division of capital asset management and maintenance. Upon conveyance of the parcel, the lessor shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel.

(g) The division and the department shall report on the results of any requests for proposals and subsequent lease executed as a result of this section. The report shall include, but not be limited to, the following: the time required to conduct the request for proposals process; the quality and characteristics of the bids received in response to the request; the criteria used to identify successful bidders; the dates of any executed leases; any service changes resulting from executed leases; any increase or decrease in the length of the season of operations for the ski area; the capital improvements that have been completed, are under construction or are planned for construction; and the monetary results of any executed leases. The report shall be submitted to the clerks of the house and senate and to the house and senate committees on ways and means no later than February 1, 2009.

**SECTION 106.** (a) There shall be a special commission on civic engagement and learning consisting of 3 members of the senate, 1 of whom shall be the senate chair of the joint committee on education, 1 of whom shall be a member of the majority party and 1 of whom shall be a member of the minority party who shall be appointed by the minority leader; provided, however, that 1 member of the senate shall be designated as co-chair of the commission; 3 members of the house of representatives, 1 of whom shall be the house chair of the joint committee on education, 1 of whom shall be a member of the majority party and 1 of whom shall be a member of the minority party who shall be appointed by the minority leader; provided, however, that 1 member of the house shall be designated as co-chair of the commission; the director of the legislative education office, or his designee; the chancellor

of higher education, or his designee; the commissioner of education, or his designee; the president of the Massachusetts Association of School Superintendents, or his designee; the president of the Massachusetts Association of School Committees, or his designee; the president of the Massachusetts Teachers Association, or his designee; the president of the Massachusetts Chapter of the American Federation of Teachers, or his designee; the president of the Massachusetts Council for the Social Studies, or his designee; the president of the Massachusetts League of Women Voters, or his designee; the president of the Massachusetts Bar Association, or his designee; the Massachusetts state coordinator of the Center for Civic Education; a representative of local government appointed by the Massachusetts Municipal Association; a representative of the judicial branch appointed by the chief administrative justice of the trial court; the president of the Massachusetts Secondary Schools Administrators Association, or his designee; and 6 persons to be appointed by the governor, 1 of whom shall be the dean of a school of education or chair of a department of education skilled in the preparation of teachers, 1 of whom shall have expertise in adult education, 1 of whom shall be a scholar in the field of civic education, 1 of whom shall have expertise in curriculum development with special emphasis on civic learning, 1 of whom shall have expertise in the field of civic engagement of youth and 1 of whom shall have expertise in service learning.

(b) The organizational session of the commission shall be convened by the co-chairs not later than 60 days after the effective date of this act whether or not all of the governor's designees have been appointed and qualified.

(c) The special commission shall make an investigation and study of the status of civic engagement and learning including, but not limited to: (1) an assessment of the status of civic education from kindergarten through undergraduate college education, with particular attention to compliance by agencies of public education and public higher education with section 2 of chapter 71 of the General Laws and section 2A of chapter 73 of the General Laws, including an assessment of the civic knowledge of graduates of public high schools; (2) an investigation of the opportunities available to students for service learning that develops an understanding of the relationship of those experiences with democratic government and a review of programs that teach civic engagement knowledge and skills that are essential to the development of active citizens; (3) an investigation of the status of public and private programs that promote civic engagement and learning including, but not limited to, Student Government Day established in section 12M of chapter 6 of the General Laws and how those programs could be enhanced or expanded through cooperation among themselves and with other entities such as schools and colleges, and through additional resources from public or private sources to be more effective and generally available to a larger number of students or the population at large; (4) an assessment of best practices in civic education in the United States that could serve as models for improving civic engagement and learning in the commonwealth; (5) an assessment of the implementation of the history and social studies curriculum frameworks by the department

of education and school districts, including recommendations for the development and assessment of practical skills for civic engagement that are complementary to the knowledge-based aspects of the frameworks; (6) an assessment of the need for a permanent entity to promote civic engagement by a responsible citizenry and to encourage the building of partnerships to enhance the teaching and learning of the principles of representative democracy; and (7) any other matters that the special commission considers relevant to the fulfillment of its mission and purpose.

(d) The special commission may conduct public hearings to gather information and to raise civic awareness, including the sponsorship of statewide or regional conferences involving educators, students or the public at large. The department of education and the board of higher education shall provide staff and other resources as the commission and those agencies consider appropriate. The special commission shall make its final report and recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the joint committee on education not later than January 1, 2009. The special commission may make such interim reports as it considers appropriate.

**SECTION 107.** The secretary of administration and finance shall submit a report to the house and senate clerks who shall forward the same to the house and senate committees on ways and means, the joint committee on bonding, capital expenditures and state assets and the joint committee on transportation not later than January 31, 2009 on all expenditures of the division of capital asset management and maintenance in fiscal year 2008. This report shall include, but not be limited to: the total amount expended on salaries and benefits for the division of capital asset management and maintenance employees and outside contractors, the total amount spent on the administration of the division of capital asset management and maintenance, the total amount spent on the design and development of the division of capital asset management and maintenance projects, the total amount spent on the construction and maintenance of the division of capital asset management and maintenance projects, the total value of all surplus property held by the commonwealth, the annual cost of leasing private space for a state agency; the existence and availability of a state-owned space within each geographical jurisdiction that could accommodate the minimum square footage needs of the agency, and, by each agency, future savings that could be achieved by relocating an office from privately leased space to state-owned space, the cost of maintaining the capital asset management information system, any other cost not included in these categories and the total cost of debt service supporting the administrative and salary expenditures of the division of capital asset management and maintenance in fiscal year 2008.

**SECTION 108.** There shall be a special commission to study auto body rates. The commission shall study existing practices in setting rates, and investigate the benefits and costs associated with developing a rate setting system, including but not limited to, establishing a tiered rating system for auto body shops, an average national hourly compensation rate, and use of a cost of labor multiplier for the commonwealth utilizing data



provided by the Bureau of Statistics for the U.S. Department of Labor. The commission shall also report on the number of auto body shops in the commonwealth from 2000 until present, including the number of shops that have closed during that time period.

The commission shall consist of the following 11 members: the director of consumer affairs and business regulation, or a designee, who shall chair the commission, 2 members of the senate, 1 of whom shall be the senate chair of the joint committee on financial services and 1 of whom shall be appointed by the senate minority leader, 2 members of the house of representatives, 1 of whom shall be the house chair of the joint committee on financial services and 1 of whom shall be appointed by the house minority leader, 3 members from the auto insurance industry to be appointed by the Automobile Insurers Bureau, 2 members from the auto repairer industry appointed by the state affiliate of the Alliance of Automotive Service Providers, and one member whom shall be a motor vehicle dealer as pursuant to section 1 of chapter 93B of the General Laws to be appointed by the Massachusetts State Auto Dealers Association. All members of the commission shall serve on a voluntary, unpaid basis.

The commission shall hold at least 2 public hearings and file a report of the results of its study including any legislative or regulatory recommendations with the clerks of the senate and house of representatives who shall forward the same to the joint committee on financial services and the senate and house committees on ways and means not later than December 31, 2008.

**SECTION 109.** Notwithstanding any general or special law to the contrary, the department of education shall report on the equity effects of the recently phased-in regional school allocation methodology on regional vocation technical schools; provided, further, that said report shall be filed with the house and senate committee on ways and means and the joint committee on education by no later than December 31, 2008.

**SECTION 110.** There shall be a special commission to consist of the following members: the secretary of education, who shall chair the commission; the chair of the board of higher education; the chairman of the State Colleges of Massachusetts Council of presidents; the president of the University of Massachusetts; a member of a board of trustees of a state college, selected by the chairs of such boards of trustees acting jointly; a member of the board of trustees at the University of Massachusetts who shall be appointed by the chair of the board; a person selected by the Massachusetts Teachers Association; and 3 persons selected by the governor who are experienced with the missions and degree-granting authority of public institutions of higher education in the United States. The commission shall make an investigation and study relative to the merit of allowing state colleges to become state universities. Such study shall include, but need not be limited to: the appropriate scope of such change; the educational value of such change for students; the need to allow state colleges to issue doctorate degrees; any increased costs to the commonwealth or to students likely to result from such change; the impact on the public higher education system, including the state colleges; and statutory compliance and degree approval processes

for higher education institutions. The commission shall consider the function of state colleges in educating and training citizens of the commonwealth for roles in the economy of the commonwealth. The commission shall file a report on the results of its investigation and study, and any recommendations relative thereto, with the joint committee on higher education not later than November 15, 2008.

**SECTION 111.** There is hereby established a special commission to study the Massachusetts contributory retirement systems. The commission shall consist of 15 members: 1 of whom shall be the secretary of administration and finance, or her designee; 1 of whom shall be the auditor of the commonwealth, or his designee; 1 of whom shall be the executive director of the public employee retirement administration commission, or his designee; 1 of whom shall be the executive director of the state retirement board, or his designee; 1 of whom shall be the executive director of the teachers' retirement board, or her designee; 3 of whom shall be members of the house of representatives, 2 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the house minority leader; 3 of whom shall be members of the senate, 2 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the senate minority leader; and 4 members to be appointed by the governor, 1 of whom shall be a private citizen who shall serve as chair of the commission and shall not be a member of any of the 106 contributory retirement systems, 1 of whom shall have professional experience in employee benefits or in actuarial science, 1 of whom shall be a member of the Massachusetts Municipal Association; and 1 of whom shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts. The commission shall convene its first official meeting no later than September 1, 2008.

The commission shall make a comprehensive study of the Massachusetts contributory retirement systems. The study shall include but shall not be limited to: contribution rates paid by employers and employees; vesting periods; the weight given to age versus years of service in the current system; the portability of benefits in the current system; cost-of-living-adjustments with special attention paid to the cost of increasing the cost-of-living-adjustments base and the cost of any recommendations the commission may make.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall file a report of its study together with the actuarial analysis and any recommendations for legislation, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service no later than July 1, 2009.

**SECTION 112.** There shall be established a special commission to investigate and study the manner in which municipalities and towns of the commonwealth balance their fiscal year budgets, including the accounting methods utilized by said cities and towns. The commission shall be appointed by the governor and shall consist of 10 members as follows: the house and senate chairmen of the joint committee on municipalities who shall serve as

co-chairs of this special commission, the house and senate chairmen of the committees on ways and means, or their designees, the speaker of the house of representatives or his designee, the president of the senate or her designee, the state auditor, or his designee, the commissioner of the department of revenue or his designee, a representative of the executive office of administration and finance, and a representative of the Massachusetts Municipal Association. The commission shall report to the general court the results of its study, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the house of representatives and senate on or before December 31, 2008.

**SECTION 113.** The department of developmental services shall serve the same population as the department of mental retardation and shall not exclude any class of individuals that is currently receiving services from the department of mental retardation. This name change is solely for administrative purposes and shall not determine the scope of individuals served by the department.

**SECTION 114.** Notwithstanding any general or special law to the contrary, any additional costs that are incurred by a regional transit authority as a result of the implementation of sections 62, 63 and 64 shall not be the obligation of the commonwealth and shall not be paid for by any funds of the commonwealth.

**SECTION 115.** Sections 9 and 113 of this act shall take effect on June 30, 2009.

**SECTION 116.** Sections 13 and 74 of this act shall take effect as of March 5, 2003.

**SECTION 117.** Sections 16 and 18 of this act shall take effect on January 1, 2010.

**SECTION 118.** Sections 20, 27 to 31, inclusive, 37, 38 and 97 of this act shall take effect on October 1, 2008.

**SECTION 119.** Sections 26 of this act shall take effect on January 1, 2009.

**SECTION 120.** Sections 40, 42 and 43 of this act shall apply to sales of tobacco products occurring on or after September 1, 2008, by manufacturers, wholesalers, unclassified acquirers and other persons specified in section 43.

**SECTION 121.** Except as otherwise specified, this act shall take effect on July 1, 2008.

*This bill was returned on July 13, 2008, 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:** 7003-1641      7061-0222      7061-9805

**SECTIONS 18, 73, 90, 91, and 92.**



SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
0320-0010	53,554	1,229,651
0321-1500	458,465	28,836,138
0321-2100	145,824	840,000
0321-2205	100,000	2,129,671
0330-3200	859,469	65,251,601
0330-3337	2,768,854	18,454,205
0339-1001	7,630,158	134,741,944
0339-1003	1,656,417	6,119,837
0339-1004	206,045	19,110,141
0340-0300	42,900	8,708,824
0340-0400	45,125	9,205,303
0340-0500	40,828	8,288,151
0340-0600	25,421	5,160,501
0340-0700	41,810	8,487,415
0340-0800	100,000	7,299,913
0340-0900	165,000	7,536,237
0340-1000	18,447	3,744,701
0340-1100	17,968	3,647,611
0611-5800	607,500	1,592,500
0640-0096	11,066	355,945
1231-1000	5,000,000	15,000,000
1599-2009	1,220,000	1,200,000
2030-1000	107,334	11,463,655
2300-0100	46,337	747,559
2800-0401	150,000	944,643
2820-0300	165,325	1,438,634
4510-0110	307,981	7,457,772
4590-0250	390,000	17,067,134
5920-2000	600,000	568,961,352
5920-2006	250,000	2,000,000
5930-1000	751,545	187,545,814
7000-9506	250,000	2,851,000
7007-1200	125,000	125,000
7027-0019	250,000	4,129,687
7061-9411	1,500,000	1,000,000
7061-9610	75,000	475,000
7061-9626	250,000	2,520,500
7077-0023	200,000	5,325,000

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Item	Reduce by	Reduce to
7100-0200	4,133,602	492,251,998
7109-0100	172,743	39,535,289
7110-0100	155,943	27,809,654
7112-0100	261,698	24,852,111
7113-0100	92,732	14,372,730
7114-0100	240,617	39,824,815
7115-0100	69,837	23,222,725
7116-0100	72,532	23,668,255
7117-0100	176,043	15,202,160
7502-0100	173,244	9,383,215
7503-0100	357,413	16,176,392
7504-0100	234,535	11,570,597
7505-0100	167,235	9,221,641
7506-0100	428,674	18,751,285
7507-0100	216,727	14,043,486
7508-0100	403,415	20,345,926
7509-0100	307,551	12,834,946
7510-0100	366,628	19,164,450
7511-0100	412,363	20,602,945
7512-0100	275,991	15,234,960
7514-0100	469,405	24,696,590
7515-0100	180,368	11,371,250
7516-0100	410,257	20,078,979
7518-0100	470,898	20,878,500
8910-0102	272,870	73,700,252
8910-0105	224,175	45,514,240
8910-0107	825,748	66,990,636
8910-0108	635,521	9,262,717
8910-0110	159,435	13,080,577
8910-0145	79,702	16,179,625
8910-0619	64,133	50,259,970

**SECTION 2** *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
2000-0100	470,000	7,303,765	"; provided further, that not less than \$70,000 shall be expended for the Falmouth Kids Global Climate Change Institute"
			and

Chap. 182

Item	Reduce by	Reduce to	Wording Stricken
			"; provided further, that not less than \$150,000 shall be expended for a one to one matching grant to the Cape Cod Bay sanctuary program; provided further, that not less than \$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"
			and
			"; and provided further, that not less than \$100,000 shall be expended for "Horizons for Youth" property in Sharon"
2200-0100	432,660	35,839,864	"; provided further, that not more than \$200,000 shall be expended for a wastewater management study and environmental impact report for the town of Acushnet"
			and
			"; provided further, that no less than \$100,000 shall be expended for the town of Marblehead; provided further, that no less than \$67,660 shall be expended for the town of Spencer for a drinking water revolving fund; provided further, that no less than \$50,000 shall be expended for the Buzzards Bay National Estuary Municipal Grant Program"
			and
			"; provided further, that not less than \$15,000 shall be expended for emergency milfoil control of Noyes Pond in the town of Tolland"
2260-8870	90,000	16,572,923	"; provided, that not less than \$90,000 shall be provided for the city of Lynn"
2330-0100	200,000	5,500,068	"; provided further, that the sum expended for the school for marine science and technology for research to minimize the economic impact of new fisheries management regulations shall not be re-



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Item	Reduce by	Reduce to	Wording Stricken
			duced from fiscal year 2008 levels except in proportion to adjustments consistent with the department's budget adjustments"
2511-0100	319,732	5,187,195	"; provided further, that not less than \$10,000 shall be made available to the Massachusetts Specialty Foods Association"
2800-0100	410,000	6,979,872	<p>"; provided further, that notwithstanding 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"</p> <p>and</p> <p>"; provided further, that not less than \$150,000 shall be expended to the town of Shutesbury for the purpose of aquatic management for Lake Wyola; provided further, that \$100,000 shall be allocated to completing Resource Management Plans for state parks and urban parks in the commonwealth"</p> <p>and</p> <p>"; provided further, that not less than \$100,000 shall be expended for the Massachusetts Hummocks Park as owned and operated by the department; provided further, that not less than \$60,000 shall be expended for the Martha's Vineyard Commission"</p>
2800-0101	480,000	1,580,310	"; provided further, that not less than \$100,000 shall be expended for Pine Tree Brook in the town of Milton; provided further, that not less than \$100,000 shall be expended for a grant to the town of Hopkinton for the North Pond Dam/Lake Maspenock Dam located in the towns of Hopkinton, Milford, and Upton; provided further, that \$50,000 shall be expended for the maintenance of invasive aquatic weeds on the Charles River in Auburndale; provided further, that not less that \$100,000 shall be expended for invasive

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			weed control on the Charles river in Waltham" and "; provided further, that not less than \$35,000 shall be expended for storm water remediation along the Cole River or Lees River by the town of Swansea; provided further, that \$40,000 shall be expended for aquatic nuisance control in Sluice Pond and Flax Pond in the city of Lynn; provided further, that no less than \$30,000 shall be expended for Eel Pond in the town of Mattapoisett" and "; and provided further, that not less than \$15,000 shall be expended for the Merrimack River Watershed Council"
2800-0500	183,025	4,120,000	" ; provided further, that the beaches shall be fully maintained; provided further, that not less than \$75,000 shall be expended for the North and South rivers Watershed association for the purposes of restoring the North and South rivers and their tributaries to met clean water act standards"
2820-0100	300,000	29,401,754	" ; provided further, that not less than \$75,000 shall be expended for Eugene Lovely Field in Andover" and "; provided further, that not less than \$50,000 shall be expended for the costs associated with the management of aquatic non-native plants in the Charles River lakes district; provided further, that not less than \$50,000 shall be expended for the eradication of invasive aquatic weeds in the town of Wayland; provided further, that not less than \$50,000 shall be provided for the ponds at Lake Street in the town of Acushnet; provided further, that not less than \$50,000 shall be expended for the Fellsmere Pond Reservoir in the city of Malden"

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Item	Reduce by	Reduce to	Wording Stricken
			and
			“; provided further, that not less than \$25,000 shall be expended for the eradication of invasive aquatic weeds in the town of Lincoln”
4000-0500	19,700,000	3,121,385,000	“; provided further, that not less than \$2,000,000 shall be expended to an acute care hospital located in Holyoke that provides clinical training programs for nurses, allied health professionals and technicians through affiliations with community colleges and private universities”
			and
			“; provided further, that not less than \$10,000,000 shall be expended as payments for pediatric specialty hospitals and units, including pediatric chronic rehabilitation hospitals; provided further, that \$8,000,000 of said \$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; provided further, that \$2,000,000 of said \$10,000,000 shall be expended for a grant to said pediatric chronic and rehabilitation long-term care hospitals for which federal financial participation and federal approval need not be obtained; and provided further, that \$5,950,000 shall be expended on disproportionate share payments to high public payer hospitals”
4000-0600	17,504,942	2,158,355,058	“; 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 2009 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



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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			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"
4100-0060	500,000	17,013,039	“; provided further, that not less than \$500,000 shall be expended to examine the factors that contribute to the cost increases of the health care delivery system and strategies employed by the provider community to reduce cost growth; provided further, that in preparing its report the division shall conduct a public hearing on the matter; and provided further, that the division shall submit its findings to the joint committees on health care financing and the house and senate committees on ways and means no later than February 16, 2009"
4120-2000	100,000	10,882,471	"and provided further that not less \$100,000 shall be expended for services provided by the Life Focus Center in the Charlestown neighborhood of Boston"
4120-3000	100,000	8,461,446	"; provided further, that not less than \$100,000 shall be expended on special projects in the Charlestown neighborhood of Boston for people with disabilities"
4120-4000	100,000	12,349,034	"; provided further, that not less than \$100,000 shall be expended for the Joseph F. Timilty Adult Day Health and Memory Loss Center"
4120-6000	100,000	10,833,588	"; provided further, that not less than \$100,000 shall be expended for the Cape Cod head injury program"
4403-2120	645,195	86,579,147	"; provided further, that contract (RPO) SCWELL 4092500010000 with Open Pantry Community Services, Inc., be an amount not less than \$545,195"

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			and "; provided further, that not less than \$100,000 shall be expended for a contract with Project Just Because, a non-profit organization in the town of Hopkinton, to assist in providing food, supplies, and services to the indigent and those in danger of becoming homeless across the MetroWest region"
4510-0710	100,000	8,717,714	"; provided further; that not less than \$100,000 be expended to oversee the operation and administration of the Massachusetts primary stroke Service Designation Hospital programs established by 105 CMR (130.1400), provided that all fund shall be used for the purpose of collecting and analyzing data from all primary stroke service designated hospitals in the commonwealth and for a full time surveyor for the purpose of ensuring compliance with primary stroke center designation criteria"
4513-1000	360,000	7,260,000	"; provided further, that not less than \$50,000 shall be expended for Falmouth Family Planning"
4513-1111	511,634	14,198,362	"; and provided further, that not less than \$75,000 shall be expended for the operation of NECPAD, a support organization which provides patient education and support for people diagnosed with PKU or related disorders and their families"
7007-0500	60,000	700,000	"; provided that no less than \$60,000 shall be expended to the city of Lynn to promote a Biotechnology incubator space within the city's smart growth district"
7007-0951	300,000	6,850,000	"; and provided further, that not less than \$50,000 shall be expended for the Buttonwood Park Zoological Society to establish educational programs, exhibits, and other enhancements"

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Item	Reduce by	Reduce to	Wording Stricken
7009-6379	15,000	932,092	"; and provided further, the secretary shall expend not less than \$15,000 for the commission relative to the scope of the degree-granting authority of state colleges and the feasibility of establishing a system of state universities pursuant to this act"
7061-0011	250,000	5,250,000	"; provided further, that not less than \$250,000 from this item shall be awarded to a qualifying community that hosts a Veterans Administration Hospital"
7066-0009	100,000	367,500	"; provided, that not less than \$100,000 shall be expended for the College Ready New England program"
7118-0100	652,498	14,077,588	"; provided further, that not less than \$454,000 shall be expended for the 1-time purchase of an engineering power plant simulator to provide training for public safety officials and other maritime agencies; and provided further, that \$100,000 shall be expended for the Woods Hole Diversity Advisory Committee"
8000-0000	170,000	2,954,281	<div> <div> "; provided further, that not less than \$100,000 shall be expended for the youth violence and street crimes unit of the Randolph police department"</div> <div>and</div> <div> "; and provided further, that \$70,000 shall be expended to the town of Hubbardston to support its emergency shelter"</div> </div>
8100-0000	240,121	256,514,959	<div> <div> "; provided further, that not less than \$150,000 shall be provided for the State Courts Against Road Rage program"</div> <div>and</div> <div> "; provided further, that not less than \$90,121 shall be expended for the costs associated with a training seminar for fourteen members of the</div> </div>



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Item	Reduce by	Reduce to	Wording Stricken
			Massachusetts State Police Bomb Squad in collaborative with the Israeli General Security Service and the Israeli National Police"
8324-0000	3,028,812	16,369,503	" ; provided further, that \$1,150,000 shall be provided for the Boston, Cambridge and Everett Fire Department Hazardous Material Response Teams"  and  " ; provided further, that \$100,000 shall be expended to Norfolk County to maintain and improve services of the Norfolk County Regional Fire & Rescue Dispatch Center"  and  " ; provided further, that not less than \$1,750,000 shall be provided for the Boston Fire Department training academy; and provided further, that not less than \$28,812 shall be expended for the costs of operating the Hampshire/Franklin juvenile fire setters intervention program"

SECTION 2 Items reduced in amount and by striking the wording and inserting in place thereof the following:

Item	Reduce by	Reduce to	Wording Stricken
0340-0100	115,000	16,478,097	" ; provided further, that not more than \$230,000 shall be expended for the cost of rent increases and property tax pass through increases at One Bulfinch Place"  Wording Inserted  " ; provided further, that not more than \$115,000 shall be expended for the cost of rent increases and property tax pass through increases at One Bulfinch Place"
2810-0100	1,195,000	24,896,714	Wording Stricken  " ; provided further, that not less than \$400,000

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Item	Reduce by	Reduce to	Wording Stricken
			shall be expended for amelioration of an area bounded by Middle, Garey and Commercial Streets in the town of Weymouth"
			and
			"; provided further, that not less than \$250,000 shall be provided to the Camp Marion and Mumford River Recreation Programs"
			and
			"; provided further, that not less than \$150,000 shall be expended for the toddler park in the city of Woburn provided further, that not less than \$200,000 shall be expended on the recreational facilities of Woburn high school; provided further, that \$150,000 shall be expended for the Methuen Parks and Recreation Department; provided further, that not less than \$100,000 shall be expended for eradication of invasive aquatic species in Lake Cochituate State Park"
			and
			"; provided further, that not less than \$50,000 shall be provided to the Lake Singletary Watershed Association; provided further, that not less than \$20,000 shall be expended to the Chandler Pond Preservation Society"
			Wording Inserted
			"; provided further, that not less than \$125,000 shall be provided to the Camp Marion and Mumford River Recreation Programs"
4000-0112	2,220,000	3,625,000	"; provided further, that an amount not to exceed \$50,000 shall be provided in a matching grant to the Methuen Branch of the Merrimack Valley YMCA; provided further, that not less than \$155,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less than \$50,000 shall be expended for the Project Adven-

Item	Reduce by	Reduce to	Wording Stricken
			ture Youth Leadership Program administered by Family Service, Inc. of Lawrence; provided further, that not less than \$50,000 shall be expended for youth and family programs and improvements at the West Suburban YMCA; provided further, that not less than \$100,000 shall be expended for the YWCA of Newburyport; provided further, that not less than \$50,000 shall be expended to the Chelsea YMCA; provided further, that not less than \$100,000 shall be expended for Square One, formerly the Springfield Day Nursery; provided further, that \$125,000 shall be expended for the YMCA of Greater Worcester for the recruitment, implementation and evaluation of the YMCA Men's Health and Families Program; provided further, that not less than \$50,000 shall be expended to the Franklin Community Action Corporation for youth services; provided further, that \$50,000 shall be expended for programs at the Athol Area YMCA; provided further, that \$100,000 shall be expended for the Nazzaro Recreation Center; provided further, that not less than \$150,000 shall be expended for nonprofit Youth Services in Andover; provided further, that not less than \$50,000 shall be expended for programs at the YWCA of Haverhill; provided further, that \$50,000 shall be expended for the Oak Square YMCA in the Brighton section of the city of Boston; provided further, that not less than \$100,000 be expended for health and wellness programming at the YWCA of Greater Lawrence; provided further, that not less than \$50,000 shall be expended for the Girls Incorporated of Holyoke; provided further, that an amount not to exceed \$35,000 be provided in a matching grant to United Way of Tri-County for services at the Milford Youth Center; provided further, that not less than \$500,000 shall be



Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			expended for youth programs in the common-wealth administered by the Cal Ripken, Sr. Foundation"
			and
			"; provided further that not less than \$50,000 shall be expended for a one-time matching grant for the YMCA Cape Cod for building purposes to comply with the American with Disabilities Act; provided further, that not less than \$250,000 shall be expended for program and improvements at Children's Friend and Family Services of Salem and Lynn; provided further, that not less than \$80,000 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 shall be expended for Fit Students for Life, Inc., formerly Boston Boxing and Fitness, Inc.; provided further, that not less than \$40,000 shall be expended for programs at the Fishing Academy, Incorporated; provided further, provided further, that not less than \$5,000 shall be provided for the Gardner Community Action Committee Fellowship Table; provided further, that not less than \$5,000 shall be provided for the Winchendon Community Action Committee Food Bank; and provided further, that not less than \$50,000 shall be expended for the YMCA in East Boston"
			<i>Wording Inserted</i>
			"; provided further, that not less than \$125,000 shall be expended for program and improvements at Children's Friend and Family Services of Salem and Lynn"

Item	Reduce by	Reduce to	Wording Stricken
			<p>"; provided further, that not less than \$10,000,000 shall be expended to pay for an increase in Medicaid rates for community health centers, as defined in section 1 of chapter 118G of the General Laws"</p>
			<p><i>Wording Inserted</i></p> <p>"; provided further, that not less than \$4,200,000 shall be expended to pay for an increase in Medicaid rates for community health centers, as defined in section 1 of chapter 118G of the General Laws"</p>
5920-3010	1,000,000	5,264,413	<p><i>Wording Stricken</i></p> <p>"; provided, that not less than \$4,000,000 shall be expended for the purposes of providing services under the children's autism Medicaid waiver application submitted pursuant to chapter 107 of the acts of 2005 to be contingent upon the maximization of federal reimbursement for waiver services funded by the commonwealth"</p>
			<p><i>Wording Inserted</i></p> <p>"; provided, that not less than \$3,000,000 shall be expended for the purposes of providing services under the children's autism Medicaid waiver application submitted pursuant to chapter 107 of the acts of 2005 to be contingent upon the maximization of federal reimbursement for waiver services funded by the commonwealth"</p>
7003-0702	3,056,500	7,982,000	<p><i>Wording Stricken</i></p> <p>"; provided, that not less than \$250,000 shall be expended for the Massachusetts Career Development Institute in Springfield to provide job training, employability development and career counseling to the unemployed and underemployed; provided further, that not less than \$7,500 shall be expended for the Bonnie Brae Day Camp in Gardner"</p>

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			and "; provided further, that not less than \$100,000 shall be provided to the Workforce Investment Association of MA, Inc. for the purpose of providing technical assistance to career center directors, administrators, and fiscal agents to assist with quality improvements in the delivery of workforce development services to job seekers and employers; provided further, that not less than \$150,000 shall be provided for Centros Las Americas, in the city of Worcester"
			and "; provided further, that not less than \$165,000 shall be expended to continue the economic development project operated by the Arlington Community Trabajando in the city of Lawrence; provided further, that not less than \$84,000 shall be expended for Community Service Agency, Inc; provided further, that not less than \$500,000 shall be expended for education, career development and employment service programs operated by the Urban League of Massachusetts; provided further, that not less than \$250,000 shall be expended for Outer Cape Health Services to provide a health center skilled training program on Lower and Outer Cape Cod"
			and "; provided further, that not less than \$250,000 shall be expended to the New England Farm Workers Council"
			and "; provided further, that not less than \$100,000 shall be expended for both the Reunion Center in the city of Easthampton and the Easthampton Youth Entrepreneurship Project; provided further, that not less than \$350,000 shall be ex-



Item	Reduce by	Reduce to	Wording Stricken
			pended to fund need-based workforce development related to continuing education grants administered by the Access Program of Boston"
			and
			"; provided further, that not less than \$100,000 shall be expended to Inquilinos Boricuas en Accion (IBA) for the Pathways to Technology Initiative"
			and
			"; provided further, that not less than \$150,000 shall be provided to Lazarus House for the continued operation of a job training program"
			and
			"; provided further, that not less than \$500,000 shall be expended on the Commonwealth Corporation"
			and
			"; 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, and said grant shall require a 200 percent match from the private sector"
			and
			"; provided further, that not less than \$75,000 shall be expended for the Massachusetts School of Professional Psychology to recruit and provide career support and workforce retention of graduate students training for careers in public sector behavioral health service delivery"
			and

Item	Reduce by	Reduce to	Wording Stricken
			<p>"; provided further, that not less than \$200,000 be expended for the 1199SEIU Training and Upgrading Fund"</p> <p>and</p> <p>"; provided further, that not less than \$250,000 shall be expended for the North Shore Alliance for Economic Development; provided further that no less than \$250,000 shall be expended for the operation and programs of AWAKE (Alive with Awareness, Knowledge, and Empowerment) in Springfield"</p> <p>and</p> <p>"; provided further, that not less than \$100,000 shall be provided for the Work Certified Program operated by the Greater New Bedford Workforce Investment Board, Inc"</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be expended for the purpose of providing training for members of the Massachusetts Superior Clerks Association as well as employees of the Superior Court Clerks' offices"</p> <p>and</p> <p>"; provided further, that not less than \$100,000 shall be expended for the Massachusetts Latino Chamber of Commerce in the city of Springfield; provided further, that not less than \$50,000 shall be made available to More Than Words in the city of Waltham for the purpose of job training operations"</p> <p>and</p> <p>"; provided further, that not less than \$300,000 shall be expended for Radius Specialty Hospital Boston for the purposes of developing and imple-</p>

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			menting an information technology skill upgrading program for its employees"
			<i>Wording Inserted</i>
			"; provided, that not less than \$125,000 shall be expended for the Massachusetts Career Development Institute in Springfield to provide job training, employability development and career counseling to the unemployed and under-employed"
			and
			"; provided further, that not less than \$50,000 shall be provided to the Workforce Investment Association of MA, Inc. for the purpose of providing technical assistance to career center directors, administrators, and fiscal agents to assist with quality improvements in the delivery of workforce development services to job seekers and employers; provided further, that not less than \$100,000 shall be provided for Centros Las Americas, in the city of Worcester"
			and
			"; provided further, that not less than \$100,000 shall be expended to continue the economic development project operated by the Arlington Community Trabajando in the city of Lawrence; provided further, that not less than \$50,000 shall be expended for Community Service Agency, Inc; provided further, that not less than \$250,000 shall be expended for education, career development and employment service programs operated by the Urban League of Massachusetts; provided further, that not less than \$100,000 shall be expended for Outer Cape Health Services to provide a health center skilled training program on Lower and Outer Cape Cod"
			and



Item	Reduce by	Reduce to	Wording Inserted
			<p>"; provided further, that not less than \$100,000 shall be expended to fund need-based workforce development related to continuing education grants administered by the Access Program of Boston"</p> <p>and</p> <p>"; provided further, that not less than \$75,000 shall be expended to Inquilinos Boricuas en Accion (IBA) for the Pathways to Technology Initiative"</p> <p>and</p> <p>"; provided further, that not less than \$100,000 shall be provided to Lazarus House for the continued operation of a job training program"</p> <p>and</p> <p>"; provided further, that not less than \$125,000 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, and said grant shall require a 200 percent match from the private sector"</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be expended for the Massachusetts School of Professional Psychology to recruit and provide career support and workforce retention of graduate students training for careers in public sector behavioral health service delivery"</p> <p>and</p> <p>"; provided further, that not less than \$100,000 be expended for the 1199SEIU Training and Upgrading Fund"</p>

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Item	Reduce by	Reduce to	Wording Inserted
			and "; provided further, that not less than \$50,000 shall be expended for the Massachusetts Latino Chamber of Commerce in the city of Springfield"
			and "; provided further, that not less than \$150,000 shall be expended for Radius Specialty Hospital Boston for the purposes of developing and implementing an information technology skill upgrading program for its employees"
7004-0099	1,815,000	10,429,245	Wording Stricken "; provided further, that not less than \$15,000 shall be expended for the Turning Point Day Resource Center for the Homeless in the town of Wareham" and "; provided further, that \$50,000 shall be expended for the Quinsigamond Village Community Center for the creation of a part-time outreach worker and for administrative costs; provided further, that not less than \$50,000 be expended for the North Shore Housing Trust, Inc." and "; provided further, that not less than \$25,000 shall be expended for AMEDAL in Lawrence; provided further, that not less than \$115,000 shall be expended for Food for the World Pantry" and "; provided further, that not less than \$150,000 shall be expended to World is Our Classroom, Inc. serving the towns of Holyoke, Westfield, Chicopee and Greenfield; provided further, that not less than \$35,000 shall be expended to the Holyoke Creative Arts Center"

Item	Reduce by	Reduce to	Wording Stricken
			and "; provided further, that not less than \$75,000 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 \$150,000 shall be expended for ABCD North End/West End elderly program; provided further, that not less than \$75,000 shall be expended for the Methuen Arlington Neighborhood, Inc; provided further, that no less than \$150,000 shall be expended for 2 computer centers and the work force program operated by the Cambridge housing authority" and "; provided further, that not less than \$100,000 shall be expended for the Indian Orchard Main Street Partnership; provided further, not less than \$100,000 shall be expended for a Homeless Prevention Program for the Homeless Connections Outreach Program in Fall River; provided further, that not less than \$100,000 shall be expended for preliminary economic development designs for downtown Needham; provided further, that not less than \$200,000 shall be expended to the Springfield Neighborhood Housing Services, Inc., so called, in Springfield to develop new housing starts, prevent foreclosures, assist first-time home buyers, and to create jobs in the construction industry" and "; provided further, that not less than \$25,000 shall be expended for the Marlborough Community Development Corporation; provided further, that not less than \$25,000 shall be allocated for operational support for the affordable housing



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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			program located at 9 Half Moon Street, in the Dorchester section of the city of Boston"
			and
			"; provided further, that not less than \$150,000 shall be expended to the town of Braintree as a onetime community action grant for the replacement of the communications console at the police department in the town of Braintree"
			and
			"; provided further, that not less than \$25,000 shall be expended for operational support for the affordable housing program for formerly homeless individuals at Egleston Crossing in the Dorchester section of the city of Boston; provided further, that not less than \$100,000 shall be expended to the Housing Families, Inc in the city of Malden for providing educational support programming for homeless children through the Children and Family Program; provided further, that not less than \$300,000 shall be expended for the paving and construction of parking facilities in the town of Holbrook; provided further, that not less than \$300,000 shall be expended for a senior center in the city of Quincy"
			and
			"; 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 \$75,000 shall be expended for the Greater Gardner Community Development Corporation; provided further, that not less than \$50,000 shall be expended for Kamp for Kids in Westfield"
			and
			"; and provided further, that not less than \$100,000 shall be expended for a contract with

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			the St. Frances Samaritan House in the city of Taunton"
			<i>Wording Inserted</i>
			"; provided further, that not less than \$100,000 shall be expended for Food for the World Pantry"
			and
			"; provided further, that \$100,000 shall be expended for ABCD North End/West End elderly program"
			and
			"; provided further, not less than \$50,000 shall be expended for a Homeless Prevention Program for the Homeless Connections Outreach Program in Fall River"
			and
			"; provided further, that not less than \$100,000 shall be expended to the Springfield Neighborhood Housing Services, Inc., so called, in Springfield to develop new housing starts, prevent foreclosures, assist first-time home buyers, and to create jobs in the construction industry"
			and
			"; provided further, that not less than \$75,000 shall be expended to the town of Braintree as a onetime community action grant for the replacement of the communications console at the police department in the town of Braintree"
			and
			"; provided further, that not less than \$150,000 shall be expended for the paving and construction of parking facilities in the town of Holbrook; provided further, that not less than \$150,000 shall be expended for a senior center in the city of Quincy"

Item	Reduce by	Reduce to	Wording Inserted
			and "; provided further, that not less than \$75,000 shall be expended for the Hungry Hill Development Corporation in the city of Springfield; provided further, that not less than \$50,000 shall be expended for the Greater Gardner Community Development Corporation"
7007-0900	10,704,000	26,383,309	<i>Wording Stricken</i> "; provided further, that not less than \$100,000 shall be expended for the Bacon Free Library in Natick; provided further, that \$100,000 shall be expended for the Unity Church in Easton; provided further, that \$100,000 shall be expended for the Freedom Trail Foundation Historic Preservation Trust Development Fund" and "; provided further, not less than \$100,000 shall be expended for Chinatown Tourism and Trust in the city of Boston; provided further that not less than \$250,000 shall be expended for Springfield Technical Assistance Program to be operated by the Affiliated Chambers of Commerce of Greater Springfield; provided further, that no less than \$200,000 be expended for the Wilmington Historical Commission" and "; provided further, that \$50,000 be expended by the town of Westhampton to support the renovation of and supplement existing funding for the Westhampton town library" and "; provided further, that not less than \$200,000 shall be expended to the Mahaiwe Performing Arts Center in Great Barrington" and



Item	Reduce by	Reduce to	Wording Stricken
			<p>"; provided further, that not less than \$125,000, shall be expended for the Hancock Shaker Village for educational programming and marketing purposes"</p> <p>and</p> <p>"; provided further, that not less than \$100,000 shall be expended for a small business program in the city of Everett; provided further, that not less than \$100,000 shall be expended for the Merrimack Repertory Theatre"</p> <p>and</p> <p>", provided further, that no less than \$100,000 shall be expended for the Italian Cultural Center of Western Massachusetts; provided further, that not less than \$250,000 shall be expended for the North Central Massachusetts Development Corporation; provided further, that not less than \$10,000 shall be expended for the operation of the Payson Park Music Festival in Belmont; provided further, that not less than \$250,000 shall be expended for The Berkshire Museum, in the city of Pittsfield"</p> <p>and</p> <p>"; provided further, that not less than \$250,000, subject to a 100 per cent matching fund, shall be expended for the Berkshire Economic Development Corporation; provided further, that not less than \$9,000 shall be expended for operating expenses for the Route 195 Visitor Information Center in Wareham; provided further, that not less than \$200,000 shall be expended for the Spirit of Springfield; provided further, that not less than \$50,000 shall be expended for the purposes of the operation of the programs of the Riverside Theatre Works, an organization located in the Hyde Park section of the city of Boston;</p>

Item	Reduce by	Reduce to	Wording Stricken
			provided further, that not less than \$125,000 shall be expended for New England Puerto Rican Association; provided further, that not less than \$175,000 shall be expended for the Springfield Business Improvement District (SBID) of Springfield to be used for the installation of a video camera surveillance monitoring system throughout the central business district area of the city of Springfield"
			and
			"; provided further, that not less than \$300,000 shall be expended for the Sturbridge Heritage and Preservation Partnership; provided further, that not less than \$250,000 shall be expended for the 495/MetroWest Corridor Partnership"
			and
			"; provided further, that not less than \$50,000 shall be expended for the operation and administration of the Commonwealth Cup, a series within the Canadian-American Association of Professional Baseball; provided further, that not less than \$200,000 shall be expended for the City Stage of Springfield"
			and
			"; provided further, that not less than \$150,000 shall be expended to the town of Wendell for an emergency assistance safety grant; provided further, that not less than \$100,000 shall be expended for Battleship Cove in the city of Fall River to assist the Commonwealth's official World War II and 9/11 memorials' educational and tourism endeavors; provided further, that not less than \$100,000 shall be expended for the Waltham Tourism Council; provided further, that not less than \$40,000 shall be expended for the Newburyport initiative to attract new businesses and industries; provided further, that not less than

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Item	Reduce by	Reduce to	Wording Stricken
			<p>\$50,000 shall be expended for the economic development project at the Salisbury Chamber of Commerce; provided further, that not less than \$150,000 shall be expended for a child safety program for the town of Wakefield; provided further, that not less than \$50,000 shall be expended to the Merry-Go-Round at Heritage State Park in Holyoke"</p> <p>and</p> <p>"; provided further, that \$100,000 shall be expended for the historic Hadley Hall in Hadley; provided further, that \$150,000 shall be expended for the Central Square Theater in Cambridge; provided further, that \$500,000 shall be expended for the Old Provincial State House for stabilization and restoration of the building; provided further, that not less than \$80,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center in Greenfield; provided further, that not less than \$200,000 shall be allocated for environmental improvements in downtown Methuen"</p> <p>and</p> <p>"; provided further, that \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$100,000 shall be expended for the Cape Cod Maritime Museum located in Hyannis"</p> <p>and</p> <p>"; provided further, that not less than \$300,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that \$100,000 shall be expended for the Grand Army of the Republic (GAR) Museum in the city of Lynn; provided further, that not less than \$200,000 shall be expended by the local</p>



Item	Reduce by	Reduce to	Wording Stricken
			chambers on Cape Cod to include Cape Cod Canal Region, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Hyannis, Mashpee, Orleans and Yarmouth, for the purpose of operating visitor centers"
			and
			"; provided further, that no less than \$2,500,000 shall be expended for a promotional program by the Massachusetts Office of Travel and Tourism to enhance the international tourism market share of the commonwealth, said program to include but not be limited to the countries of Canada, Argentina, Brazil, Great Britain, Ireland, Italy, France, Germany, Japan and Spain; provided further, that no less then \$74,000 shall be expended for the Spectacle of Lights at Heritage Museums and Gardens in Sandwich; 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 Free Shakespeare Company, a program of The Citi Performing Arts Center, for production support for performances offered for free to the public and for a pilot program to expand performances to Springfield and other cities"
			and
			"; provided further, that not less than \$250,000 be expended for the Western Massachusetts Economic Development Council for developing, marketing and advertising purposes; provided further, that no less than \$100,000 shall be expended for the historic restoration of the main pier at the Gloucester Maritime Heritage Center in the port of Gloucester"
			and

Item	Reduce by	Reduce to	Wording Stricken
			"; provided further, that not less than \$300,000 shall be expended to the Basketball Hall of Fame in Springfield"
			and
			"; provided further, that not less than \$150,000 shall be expended for streetscape improvements along Humphrey Street in the town of Swampscott"
			and
			"; provided further, that no less than \$50,000 shall be expended for the Petersham Historical Society; provided further, that no less than \$25,000 shall be expended for the Quaboag Historical Society"
			and
			"; provided further, that not less than \$75,000 be expended for "Marlborough 2010"; provided further, that not less than \$200,000 shall be expended for the Head of the Charles Regatta; provided further, that not less than \$150,000 shall be expended for a child safety program for the city of Melrose; provided further, that not less than \$150,000 shall be expended for restoration and repairs to the historical Crocker Field in the city of Fitchburg"
			and
			"; provided further, that not less than \$100,000 shall be expended for the law enforcement technology fund in the town of Franklin"
			and
			"; provided further, that not less than \$1,000,000 shall be expended for the international education and foreign language grant program fund established pursuant to Section 2VVV of chapter

Item	Reduce by	Reduce to	Wording Stricken
			29 of the General Laws; provided further, that not less than \$250,000 shall be expended for new seating in the historic Chevalier auditorium in Medford"
			and
			"; provided further, that not less than \$100,000 shall be expended for the Reagle Players; provided further, that not less than \$100,000 shall be expended for the Russian Community Association of Massachusetts (RCAM) in Boston; provided further, that not less than \$25,000 shall be expended for Essex Street, between houses 506 and 509, in the Town of Saugus"
			and
			"; provided further, that not less than \$100,000 shall be expended for a grant for the Fino Field Complex in Milford; provided further, that not less than \$75,000 of the funds appropriated herein shall be used to assist year round rural theater organizations on the Lower and Outer Cape through grants for non-prime season operating expenses and audience enhancement initiatives; provided further that not less than \$150,000 shall be expended for the North Adams Armory"
			and
			"; provided further, that \$100,000 shall be expended for School Zone safety projects in Arlington"
			and
			"; provided further, that \$125,000 shall be expended for the historic registry in the town of Stoneham; provided further, that \$125,000 shall be expended for the Sanborn House in the town of Winchester"



Item	Reduce by	Reduce to	Wording Stricken
			and "; provided further, that not less than \$250,000 shall be expended for the Prince Hall Youth Mentoring Program"
			and "; provided further, that not less than \$50,000 shall be expended for a traffic safety grant regarding the intersection of Highland Glenn Road and High Street in the town of Westwood"
			and "; provided further, that not less than \$75,000 shall be available for a public safety enhancement grant for the City of Pittsfield; provided further, that not less than \$50,000 shall be expended for the YouthGROW program"
			and "; provided further, that not less than \$25,000 shall be expended for the Southwick Cultural Council; provided further, that no less than \$250,000 shall be expended for Puerto Rican Cultural Center of Springfield; provided further, that \$100,000 be expended for costs at the Rockwood Sports Complex located in the city of Worcester; provided further, that not less than \$200,000 shall be expended for the Zumix Cultural Organization in East Boston"
			and "; provided further, that not less than \$175,000 be expended for planning and design funding for an economic development program for Needham Heights"
			and "; provided further, that not less than \$175,000 be expended for construction plans and bid documents for a new park and recreation building

Item	Reduce by	Reduce to	Wording Stricken
			utilizing green technologies in the town of Medfield; provided further, that not less than \$80,000 shall be expended to the Hull Lifesaving Museum for the purpose of planning the Massachusetts Maritime Trail; provided further, that \$51,000 shall be expended for the purpose of funding the Francis Wyman Project; provided further, that \$300,000 shall be expended for a transportation grant to the town of Weston; provided further, that not less than \$225,000 shall be expended for the International Trade Assistance Center in Fall River"
			and
			"; provided further, that not less than \$100,000 shall be expended for a public safety program in the town of Dudley"
			and
			"; provided further, that not less than \$50,000 shall be provided for a public safety grant for the town of Uxbridge"
			and
			"; provided further, that not less than \$150,000 shall be expended for a feasibility study on Meadowbrook Road in the town of Chelmsford; provided further, that not less than \$100,000 shall be expended for a transportation development grant in Arlington; provided further, that not less than \$200,000 shall be expended to the Town of Andover for a child safety grant; provided further, that not less than \$25,000 shall be expended for a feasibility study at the Fairhaven Council on Aging facility; provided further, that not less than \$50,000 be expended for a safety enhancement grant for the town of Canton"
			and
			"; provided further, that \$100,000 shall be ex-

Item	Reduce by	Reduce to	Wording Stricken
			<p>pended for the Massachusetts Advocates for the Arts, Sciences, and Humanities to support the rehabilitation of cultural and heritage facilities across the Commonwealth and the fostering of economic opportunity through arts, culture and tourism in the Commonwealth through public education; provided further that not less than \$100,000 shall be expended to the Dunbar Community Center (DCC), Inc., so-called, in Springfield to operate the DCC Teen Safe Zone Program; provided further, that not less than \$350,000 shall be expended for amelioration of an area bounded by Middle, Garey and Commercial Streets in the Town of Weymouth"</p> <p>and</p> <p>"; provided further, that not less than \$200,000 shall be appropriated to the Spanish American Union, Incorporated, in the city of Springfield; provided further, that not less than \$75,000 of said funds shall be dedicated to the Puerto Rican Cuatro Project, a cultural development project under said Spanish American Union Incorporated; provided further, that not less than \$225,000 shall be expended for the Regional Technology Development Corporation of Cape Cod"</p> <p>and</p> <p>"; provided further, that not less than \$65,000 shall be expended for the Creative Economy Association of the North Shore; provided further, that not less then \$60,000 shall be expended for the Boston Irish Tourism Association marketing initiatives and for an analysis of the marketability of the Massachusetts Irish Community"</p> <p>and</p> <p>"; provided further, that not less than \$10,000</p>



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Item	Reduce by	Reduce to	Wording Stricken
			shall be expended for adolescent outreach awareness in the city of Methuen"
			and
			"; provided further, that not less than \$100,000 shall be shall be expended for the Greater Haverhill Chamber of Commerce for the expansion of the Haverhill Means Business program"
			and
			"; provided further, that not less than \$50,000 shall be expended for the operation of the historic Jenney Grist Mill in the town of Plymouth"
			and
			"; provided further, that not less than \$25,000 shall be expended for the Sandwich Glass Museum to promote the education of the glass blowing industry in Massachusetts history"
			and
			"; provided further, that not less than \$20,000 shall be expended for the Captain Gerald F. DeConto program in the town of Sandwich"
			and
			"; and provided further, that not less than \$15,000 shall be provided to the Cape Cod Cranberry Growers for the production of a Cranberry Harvest Map"
			and
			"; provided further, that not less than \$50,000 shall be expended for the Hopkinton Athletic Association for facilitation, promotion and coordination of activities in connection with the international "Running for the Human Race" project"
			and

Item	Reduce by	Reduce to	Wording Stricken
			<p>"; provided further, that not less than \$50,000 shall be provided for the Galaxy Community Council for promoting and hosting the Westover Air Show in the city of Chicopee"</p> <p>and</p> <p>"; provided further, that not less than \$200,000 shall be expended for From the Top, Inc; provided further, that \$50,000 shall be expended to assist in the planning of a performing arts and cultural center in the town of Milton, including but not limited to feasibility studies and architectural drawings; and provided further, that the town of Milton shall serve as fiscal agent for the project until the establishment of an independent nonprofit corporation to establish and operate a Milton Center for the Performing Arts; provided further, that \$250,000 shall be expended for the promotion of the performing arts in the town of Wakefield; and provided further, that \$100,000 shall be expended for the Stoneham Theater in the town of Stoneham"</p> <p>and</p> <p>"; provided further, that \$200,000 shall be expended to Old Sturbridge Village for an international marketing campaign; provided further that \$10,000 be expended to the Town of Palmer for its annual winter festival; provided further, that \$35,000 be expended to Monson Bellman, Inc. to support museum activities; provided further, that \$20,000 be expended to the Town of Palmer for the Palmer Youth Program; and provided further, that not less than \$25,000 shall be expended for the Edson and Westlawn cemeteries"</p> <p><i>Wording Inserted</i></p> <p>"; provided further, that not less than \$50,000</p>

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Item	Reduce by	Reduce to	Wording Inserted
			shall be expended for the Bacon Free Library in Natick"
			and
			"; provided further, that \$50,000 shall be expended for the Freedom Trail Foundation Historic Preservation Trust Development Fund"
			and
			"; provided further, not less than \$50,000 shall be expended for Chinatown Tourism and Trust in the city of Boston; provided further that not less than \$125,000 shall be expended for Springfield Technical Assistance Program to be operated by the Affiliated Chambers of Commerce of Greater Springfield; provided further, that no less than \$100,000 be expended for the Wilmington Historical Commission"
			and
			"; provided further, that not less than \$100,000 shall be expended to the Mahaiwe Performing Arts Center in Great Barrington"
			and
			"; provided further, that not less than \$75,000, shall be expended for the Hancock Shaker Village for educational programming and marketing purposes"
			and
			"; provided further, that not less than \$50,000 shall be expended for the Merrimack Repertory Theatre"
			and
			", provided further, that no less than \$50,000 shall be expended for the Italian Cultural Center of Western Massachusetts; provided further, that not less than \$125,000 shall be expended for the



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Item	Reduce by	Reduce to	Wording Inserted
			North Central Massachusetts Development Corporation"
			and
			"; provided further, that not less than \$125,000 shall be expended for The Berkshire Museum, in the city of Pittsfield"
			and
			"; provided further, that not less than \$125,000, subject to a 100 per cent matching fund, shall be expended for the Berkshire Economic Development Corporation"
			and
			"; provided further, that not less than \$100,000 shall be expended for the Spirit of Springfield"
			and
			"; provided further, that not less than \$75,000 shall be expended for New England Puerto Rican Association; provided further, that not less than \$100,000 shall be expended for the Springfield Business Improvement District (SBID) of Springfield to be used for the installation of a video camera surveillance monitoring system throughout the central business district area of the city of Springfield"
			and
			"; provided further, that not less than \$125,000 shall be expended for the 495/MetroWest Corridor Partnership"
			and
			"; provided further, that not less than \$150,000 shall be expended for the City Stage of Springfield"
			and

Item	Reduce by	Reduce to	Wording Inserted
			<p>"; provided further, that not less than \$75,000 shall be expended to the town of Wendell for an emergency assistance safety grant; provided further, that not less than \$50,000 shall be expended for Battleship Cove in the city of Fall River to assist the Commonwealth's official World War and 9/11 memorials' educational and tourism endeavors"</p> <p>and</p> <p>"; provided further, that not less than \$75,000 shall be expended for a child safety program for the town of Wakefield"</p> <p>and</p> <p>"; provided further, that \$50,000 shall be expended for the historic Hadley Hall in Hadley"</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center in Greenfield"</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be expended for the Cape Cod Maritime Museum located in Hyannis"</p> <p>and</p> <p>"; provided further, that not less than \$150,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that \$50,000 shall be expended for the Grand Army of the Republic (GAR) Museum in the city of Lynn"</p> <p>and</p> <p>"; provided further, that no less than \$1,500,000 shall be expended for a promotional program by</p>

Item	Reduce by	Reduce to	Wording Inserted
			<p>the Massachusetts Office of Travel and Tourism to enhance the international tourism market share of the commonwealth, said program to include but not be limited to the countries of Canada, Argentina, Brazil, Great Britain, Ireland, Italy, France, Germany, Japan and Spain"</p> <p>and</p> <p>"; provided further, that not less than \$125,000 shall be expended for the SouthCoast Development Partnership for the purposes of regional tourism and economic development; provided further, that not less than \$200,000 shall be expended for the Free Shakespeare Company, a program of The Citi Performing Arts Center, for production support for performances offered for free to the public and for a pilot program to expand performances to Springfield and other cities"</p> <p>and</p> <p>"; provided further, that not less than \$125,000 be expended for the Western Massachusetts Economic Development Council for developing, marketing and advertising purposes; provided further, that no less than \$50,000 shall be expended for the historic restoration of the main pier at the Gloucester Maritime Heritage Center in the port of Gloucester"</p> <p>and</p> <p>"; provided further, that not less than \$150,000 shall be expended to the Basketball Hall of Fame in Springfield"</p> <p>and</p> <p>"; provided further, that not less than \$100,000 shall be expended for streetscape improvements along Humphrey Street in the town of Swampscott"</p>



Item	Reduce by	Reduce to	Wording Inserted
			and
			"; provided further, that not less than \$75,000 shall be expended for a child safety program for the city of Melrose"
			and
			"; provided further, that not less than \$50,000 shall be expended for the law enforcement technology fund in the town of Franklin"
			and
			"; provided further, that not less than \$500,000 shall be expended for the international education and foreign language grant program fund established pursuant to Section 2VVV of chapter 29 of the General Laws; provided further, that not less than \$150,000 shall be expended for new seating in the historic Chevalier auditorium in Medford"
			and
			"; provided further, that not less than \$50,000 shall be expended for the Russian Community Association of Massachusetts (RCAM) in Boston"
			and
			"; provided further that not less than \$75,000 shall be expended for the North Adams Armory"
			and
			"; provided further, that \$75,000 shall be expended for the Sanborn House in the town of Winchester"
			and
			"; provided further, that not less than \$125,000 shall be expended for the Prince Hall Youth Mentoring Program"
			and

Item	Reduce by	Reduce to	Wording Inserted
			<p>"; provided further, that no less than \$75,000 shall be expended for Puerto Rican Cultural Center of Springfield; provided further, that \$50,000 be expended for costs at the Rockwood Sports Complex located in the city of Worcester; provided further, that not less than \$150,000 shall be expended for the Zumix Cultural Organization in East Boston"</p> <p>and</p> <p>"; provided further, that not less than \$75,000 be expended for construction plans and bid documents for a new park and recreation building utilizing green technologies in the town of Medfield; provided further, that not less than \$40,000 shall be expended to the Hull Lifesaving Museum for the purpose of planning the Massachusetts Maritime Trail"</p> <p>and</p> <p>"; provided further, that \$150,000 shall be expended for a transportation grant to the town of Weston; provided further, that not less than \$100,000 shall be expended for the International Trade Assistance Center in Fall River"</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be expended for a public safety program in the town of Dudley"</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be expended for a transportation development grant in Arlington; provided further, that not less than \$150,000 shall be expended to the Town of Andover for a child safety grant"</p> <p>and</p> <p>"; provided further, that \$50,000 shall be ex-</p>

Item	Reduce by	Reduce to	Wording Inserted
			<p>pended for the Massachusetts Advocates for the Arts, Sciences, and Humanities to support the rehabilitation of cultural and heritage facilities across the Commonwealth and the fostering of economic opportunity through arts, culture and tourism in the Commonwealth through public education; provided further that not less than \$50,000 shall be expended to the Dunbar Community Center (DCC), Inc., so-called, in Springfield to operate the DCC Teen Safe Zone Program; provided further, that not less than \$200,000 shall be expended for amelioration of an area bounded by Middle, Garey and Commercial Streets in the Town of Weymouth"</p> <p>and</p> <p>"; provided further, that not less than \$150,000 shall be appropriated to the Spanish American Union, Incorporated, in the city of Springfield; provided further, that not less than \$75,000 of said funds shall be dedicated to the Puerto Rican Cuatro Project, a cultural development project under said Spanish American Union Incorporated"</p> <p>and</p> <p>"; provided further, that not less than \$30,000 shall be expended for the Creative Economy Association of the North Shore; provided further, that not less then \$30,000 shall be expended for the Boston Irish Tourism Association marketing initiatives and for an analysis of the marketability of the Massachusetts Irish Community"</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be shall be expended for the Greater Haverhill Chamber of Commerce for the expansion of</p>



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Item	Reduce by	Reduce to	<i>Wording Inserted</i>
			the Haverhill Means Business program"
			and
			"; provided further, that not less than \$25,000 shall be provided for the Galaxy Community Council for promoting and hosting the Westover Air Show in the city of Chicopee"
			and
			"; provided further, that not less than \$100,000 shall be expended for From the Top, Inc"
			and
			"; provided further, that \$100,000 shall be expended to Old Sturbridge Village for an international marketing campaign"
7066-0000	1,000,000	5,512,898	<i>Wording Stricken</i>
			"; provided further, that \$2,000,000 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"
			<i>Wording Inserted</i>
			"; provided further, that \$1,000,000 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"

**SECTION 2** *Items disapproved by striking the wording:*

Item	<i>Wording Stricken</i>
1000-0001	<p>"; provided further, that notwithstanding 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 in which a reporting requirement is stipulated within such item and which report is not filed within 10 days of the stated due date; provided further, that all amounts deducted shall be deposited into the General Fund and the comptroller shall notify the house and senate committees on ways and means of all amounts so deducted"</p>
4000-0300	<p>"; provided further that not less than \$500,000 will be made available for supplemental payments to one or more of the three largest Medicaid participating licensed non-profit chronic and rehabilitation hospitals with less than 500 beds, with Medicaid participation measured and ranked by the number of Medicaid days in the most recently completed fiscal year, but excluding for purposes of this clause any of such hospitals that are authorized to receive supplemental payments pursuant to line items 4000-0500 and 4000-0600"</p> <p>and</p> <p>"; provided further, that the executive office shall not reduce the outpatient rates for any specialty hospital which limits its admissions to patients under active diagnosis and treatment of the eyes, ears, nose, and throat, below that which was granted during hospital fiscal year 2005"</p> <p>and</p> <p>"; 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 2009 the definition of a 'pediatric specialty unit' shall mean an acute care hospital with a burn center verified by the American Burn Center and the American College of Surgeons and a level 1 trauma center for pediatrics verified by the American College of Surgeons 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</p>

Item	<i>Wording Stricken</i>
	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 I, Section 2405.3G; provided further, that in calculating rates of payment for children enrolled in MassHealth receiving inpatient services at acute care pediatric hospitals and pediatric subspecialty 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 inpatient SPAD and outlier payments for discharges with a case mix acuity greater than 3.5 shall be at least equal to 85 per cent of the expenses incurred in providing services to those children; provided further, that the executive office shall not reduce the payment rates by no less than 75 per cent for any specialty hospital which limits its services to patients under active diagnosis and treatment of cancer below that which was granted in the previous year"
4000-0360	"; 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 council may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization and the most recent revenue estimate as reported in the state accounting system"
4000-0640	"; provided further, that the division shall adjust per diem rates to reflect any reductions in Medicaid utilization"
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 to the secretary of transportation for approval requests to repair such vehicles costing in excess of the limit set forth in said section 7"
9110-1455	; and provided further, that the secretary of elder affairs shall not



Item	Wording Stricken
	implement cost sharing increases during fiscal year 2009 unless such cost sharing increases have been approved by law a vote of the general court

*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 8, 11, 12, 94, and 107.*

*The remainder of the bill was approved by the Governor on July 13, 2008 at four o'clock and twenty-five minutes, P.M.*

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 30, 2008 the House of Representatives and in concurrence on July 30, 2008 the Senate passed the following Items:*

**SECTION 2.** Items: 0320-0010, 0321-1500, 0330-3200, 0339-1001, 2330-0100, 2511-0100, 2800-0500, 2820-0300, 4120-2000, 4120-3000, 4120-4000, 4120-6000, 4403-2120, 4510-0710, 4513-1000, 4513-1111, 4590-0250, 5920-2000, and 5920-3010.

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 30, 2008 the House of Representatives and in concurrence on July 31, 2008 the Senate passed the following Items:*

**SECTION 2.** Items: 0339-1003, 0339-1004, 7003-1641, 7007-1200, 7061-0011, 8100-0000, and 8324-0000

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 31, 2008 the House of Representatives and in concurrence on July 31, 2008 the Senate passed the following Items:*

**SECTION 2.** Items: 0321-2100, 0321-2205, 0330-3337, 0340-0100, 0340-0300, 0340-0400, 0340-0500, 0340-0600, 0340-0700, 0340-0800, 0340-0900, 0340-1000, 0340-1100, 1000-0001, 1231-1000, 1599-2009, 2000-0100, 2030-1000, 2200-0100, 2260-8870, 2300-0100, 2800-0100, 2800-0101, 2800-0401, 2810-0100, 2820-0100, 4000-0112, 4100-0060, 7003-0702, 7004-0099, 7007-0500, 7007-0900, 7007-0951, 7061-0222, 7061-9610, 7061-9626, 7061-9805, 7066-0000, 7066-0009, 7077-0023, 8000-0000, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, and 8910-0619.

**SECTION 73.**

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**Chapter 183. AN ACT AUTHORIZING THE TOWN OF READING TO PLACE A QUESTION ON THE BALLOT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO CERTAIN RESTAURANTS.**

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

**SECTION 1.** (a) Notwithstanding section 11 of chapter 138 of the General Laws, any vote cast in the town of Reading on Question 6 at the November 2, 1982 state election or any other general or special law to the contrary, the board of selectmen of the town of Reading shall cause to be placed on the official ballot at the annual town election to be held in the year 2009 the following question:-

“Shall the board of selectmen be granted the authority to issue licenses for the sale of all alcohol beverages to be consumed on the premises to restaurants with a seating capacity of less than 100 persons?”

Yes \_\_\_\_\_ No \_\_\_\_\_

(b) If a majority of the votes cast in the town in answer to the question is in the affirmative, the town shall be taken to have authorized the sale of all alcoholic beverages to be drunk on the premises of restaurants having a seating capacity of less than 100 persons. The licenses shall be subject to all the other provisions of chapter 138 of the General Laws.

(c) The board of selectmen of the town of Reading shall include a summary of the aforesaid question to be printed on the ballot.

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

Approved July 16, 2008.

**Chapter 184. AN ACT AUTHORIZING THE TOWN OF SANDWICH 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 Sandwich may grant to a business located in the downtown Sandwich area an additional license for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of chapter 138. The license shall be subject to all of said chapter 138 except said section 17.

Once issued, the licensing authority of the town of Sandwich shall not approve the transfer of the license to a business located outside the downtown Sandwich area but may grant the license to another business located within the downtown Sandwich area if an applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.



If the license granted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority of the town of Sandwich and the town may then grant the license to a new applicant under the same conditions as specified in this act.

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

Approved July 16, 2008.

**Chapter 185. AN ACT ESTABLISHING A POST-RETIREMENT GROUP HEALTH INSURANCE TRUST FUND IN THE TOWN OF CONCORD.**

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

**SECTION 1.** There shall be a Post-Retirement Group Health Insurance Trust Fund in the town of Concord for the purpose of meeting the future costs of premiums payable by the town on behalf of retired employees and eligible surviving spouses or dependents of deceased employees pursuant to chapter 32B of the General Laws.

**SECTION 2.** The Post-Retirement Group Health Insurance Trust Fund shall be under the supervision and management of the town manager and under the custody of the town treasurer. The town manager may employ any qualified bank, trust company, corporation, firm or person for investment management and custody purposes and such services shall be paid from the fund. The fund shall be credited with all amounts appropriated to it or otherwise made available by the town.

The town manager may also employ or contract for actuarial services which shall be paid for by the fund. Actuarial services obtained in support of the fund may include, but shall not be limited to, the following: (a) measurement of the present value of future benefits attributable to the year earned; and (b) establishment and periodic updating of a schedule of funding levels required to amortize the existing initial unfunded actuarial liability over a period not to exceed 30 years and to amortize any additional unfunded actuarial liability over a period not to exceed 15 years from the year of the determination in which the additional liability is first recognized. This information shall assist in determining the recommended annual appropriation to the fund.

**SECTION 3.** The assets of the Post-Retirement Group Health Insurance Trust Fund may be invested by the treasurer in accordance with chapter 203C of the General Laws and any earnings or interest accruing from the investments shall remain with the fund and shall be expended only for the purposes of the fund, subject to appropriation.

Approved July 16, 2008.



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**Chapter 186. AN ACT ESTABLISHING THE BRISTOL COUNTY COMMISSION ON THE STATUS OF WOMEN.**

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

(a) There shall be a permanent commission on the status of women in Bristol county consisting of 9 members to be appointed by the Massachusetts commission on the status of women. The Bristol commission shall conduct an ongoing study of all matters concerning women in Bristol county. The Bristol commission shall report its findings to the Massachusetts commission on the status of women annually, on or before June 2, and recommend solutions to problems facing the women of Bristol county. The Massachusetts commission on the status of women shall make appointments to the Bristol commission from a pool of applicants who reside in Bristol county.

(b) Bristol commission members shall serve a term of 3 years and until their successors are appointed. Members may be reappointed for 2 consecutive terms. After the completion of 2 consecutive terms, members may reapply to serve on the commission after a year has passed since their last term. The initial members of the Bristol county commission on the status of women shall be appointed for the following terms: 3 members for a term of 1 year; 3 members for a term of 2 years; and 3 members for a term of 3 years.

(c) Vacancies in the membership of the commission shall be filled by the Massachusetts commission on the status of women for the balance of the unexpired term.

(d) Appointments by the Massachusetts commission on the status of women to the Bristol county commission on the status of women shall be made in consultation with women's organizations. Nominations shall be solicited between August 1 and September 16 of each year through an open application that is widely distributed throughout Bristol county. Members of the Bristol commission may be diverse and represent different towns and municipalities in Bristol county.

(e) Members shall serve on the commission as volunteers and shall not be compensated.

(f) The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it considers necessary.

Approved July 16, 2008.

**Chapter 187. AN ACT EXEMPTING THE POSITION OF DEPUTY FIRE CHIEF IN THE TOWN OF HINGHAM FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of deputy fire chief in the town of Hingham shall be exempt from chapter 31 of the General Laws.

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

Approved July 18, 2008.

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**Chapter 188. AN ACT FURTHER REGULATING INTERMUNICIPAL AGREEMENTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to further regulate intermunicipal agreements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** The first paragraph of section 4A of chapter 40 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of a governmental unit may, on behalf of the unit, enter into an agreement with another governmental unit to perform jointly or for that unit's services, activities or undertakings which any of the contracting units is authorized by law to perform, if the agreement is authorized by the parties thereto, in a city by the city council with the approval of the mayor, in a town by the board of selectmen and in a district by the prudential committee; provided, however, that when the agreement involves the expenditure of funds for establishing supplementary education centers and innovative educational programs, the agreement and its termination shall be authorized by the school committee.

**SECTION 2.** Said first paragraph of said section 4A of said chapter 40, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- For the purposes of this section, a "governmental unit" shall mean a city, town or a regional school district, a district as defined in section 1A, a regional planning commission, however constituted, a regional transit authority established under chapter 161B, a water and sewer commission established under chapter 40N or by special law, a county, or a state agency as defined in section 1 of chapter 6A.

Approved July 18, 2008.

**Chapter 189. AN ACT RELATIVE TO THE APPOINTMENT OF THE FIRE CHIEF AND THE BOARD OF FIRE COMMISSIONERS IN THE CITY OF FALL RIVER.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the fire chief of the city of Fall River shall be the head of the fire department and shall be responsible for the management and operation of the department. The position of fire chief shall be exempt from chapter 31 of the General Laws.

**SECTION 2.** The fire chief shall be appointed by the mayor and confirmed by the city council and shall be employed by contract for a term not to exceed 3 years. The terms and conditions of the contract shall be determined by the mayor and approved by the city council.

**SECTION 3.** The board of fire commissioners shall consist of 3 persons to be appointed by the mayor in accordance with the city charter and shall be advisory in nature.

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

Approved July 18, 2008.

**Chapter 190. AN ACT RELATIVE TO REAL PROPERTY TAX DEFERRALS IN THE TOWN OF LEXINGTON.**

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

**SECTION 1.** Notwithstanding the provisions of the first paragraph of clause Forty-first A of section 5 of chapter 59 of the General Laws, the town of Lexington may, by vote of its town meeting and with the approval of its board of selectmen: (1) adopt a lower minimum age of eligibility than 65; (2) adopt a higher maximum qualifying gross receipts amount than \$40,000; and (3) condition eligibility for deferral of real property taxes on objective criteria of disability or other hardship for persons who would not otherwise qualify based on their age.

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

Approved July 22, 2008.

**Chapter 191. AN ACT DESIGNATING A CERTAIN TRAFFIC ROTARY IN THE CITY OF EVERETT AS THE EDWARD G. CONNOLLY MEMORIAL ROTARY.**

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

The traffic rotary at Sweetser circle in the city of Everett shall be designated and known as the Edward G. Connolly memorial rotary, in memory of Edward G. Connolly for his years of public service in the city of Everett and the commonwealth. The department of highways shall erect and maintain suitable markers at the rotary bearing the designation in compliance with the standards of said department.

Approved July 22, 2008.



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**Chapter 192. AN ACT ESTABLISHING A BOARD OF WATER AND SEWER COMMISSIONERS IN THE TOWN OF PLAINVILLE.**

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

**SECTION 1.** The board of water commissioners of the town of Plainville, established in section 9 of chapter 404 of the acts of 1908, shall act as the sewer commissioners of the town and shall have all the powers and duties of sewer commissioners as provided in the General Laws.

**SECTION 2.** The board of water commissioners established in section 9 of chapter 404 of the acts of 1908 shall be the board of water and sewer commissioners.

**SECTION 3.** The board of sewer commissioners of the town of Plainville is hereby abolished.

**SECTION 4.** The members presently serving as the board of water commissioners of the town of Plainville shall serve on the board of water and sewer commissioners until the expiration of their respective terms and the election of their successors.

Approved July 22, 2008.

**Chapter 193. AN ACT RELATIVE TO HEALTH INSPECTORS IN THE CITY OF SOMERVILLE.**

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

**SECTION 1.** Notwithstanding chapter 111 of the General Laws, the city of Somerville may place the city's health inspectors that are under the supervision of the city's division of inspectional services, under the direction and control of the director of the health department. The health inspectors shall have the authority provided to them in said chapter 111 and in any other law, regulation or authority pertaining to public health.

**SECTION 2.** This act shall take effect as of August 31, 2005.

Approved July 22, 2008.

**Chapter 194. AN ACT ESTABLISHING A SICK LEAVE FOR SARAH CARMICHAEL, AN EMPLOYEE OF THE DEPARTMENT OF YOUTH SERVICES.**

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

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**Chap. 194**

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the department of youth services shall establish a sick leave bank for Sarah Carmichael 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 Sarah Carmichael. Whenever Sarah Carmichael terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved July 23, 2008.

**Chapter 195. AN ACT ESTABLISHING A SICK LEAVE FOR MARY MERCURIO,  
AN EMPLOYEE OF THE DEPARTMENT OF SOCIAL SERVICES.**

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

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

Notwithstanding any general or special law, rule or regulation to the contrary, the department of social services shall establish a sick leave bank for Mary Mercurio, 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 Mary Mercurio. Whenever Mary Mercurio terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved July 23, 2008.

**Chapter 196. AN ACT REQUIRING THE DEPARTMENT OF REVENUE TO  
REPORT PRELIMINARY TAX REVENUE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to require forthwith the department of revenue to report preliminary tax revenues bi-monthly, 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 6 of chapter 14 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following clause:-

8. Shall prepare and submit a bimonthly report of preliminary tax revenue collected each month. The commissioner shall submit these reports to the governor, the chair and ranking minority member of the house committee on ways and means and the chair and ranking minority member of the senate committee on ways and means, on or before the third business day following the fifteenth day of each month and on or before the third business day of the following month; provided, however, that the commissioner shall submit the report for June on the day after the department completes the processing of June tax revenues.

Approved July 23, 2008.

**Chapter 197. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SHANNON CROUSE, 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 Shannon Crouse, 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 Shannon Crouse. Whenever Shannon Crouse terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank. Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court.

Approved July 23, 2008.

**Chapter 198. AN ACT ESTABLISHING THE REGIONAL EFFICIENCY ASSISTANCE GRANT FUND.**

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



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**Chap. 198**

is to provide forthwith funds for local and regional planning, 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, not less than 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from the General Fund to the District Local Technical Assistance Fund, established in section 2XXX of chapter 29 of the General Laws.

Approved July 23, 2008.

**Chapter 199. AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO ABATE CERTAIN FISCAL YEAR 2003 REAL PROPERTY TAXES.**

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

Notwithstanding section 5 of chapter 59 of the General Laws, or any other general or special law to the contrary, the assessors of the city of Cambridge may abate fiscal year 2003 property taxes in the amount of \$61,463.24 assessed on a parcel at 62 Gore street in the city of Cambridge to Cambridge Gore Limited Partnership, which parcel was purchased by a charitable organization, Cambridge Family and Children's Service, on August 12, 2002.

Approved July 23, 2008.

**Chapter 200. AN ACT AUTHORIZING THE GRANTING OF AN EASEMENT BY THE TOWN OF SHARON.**

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

Notwithstanding any general or special law to the contrary, the town of Sharon may release a conservation restriction on a certain parcel of land in said town and convey as a right appurtenant thereto, an easement over a portion of Lot 25. The easement is shown on a plan of land entitled "Easement Plan of Land, Sharon, Mass." dated October 15, 2007 by Norwood Engineering Co., Inc. on file in the office of the town engineer. The easement contains an area of 3,985 square feet, more or less. The easement shall provide access only to the existing residence at 145 Beach street in the town of Sharon and the existing septic system servicing that address and shall not provide access to any other parcel or use.

Approved July 23, 2008.

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**Chapter 201. AN ACT REQUIRING A REPORT OF EXPENDITURE OF THE  
DIVISION OF CAPITAL MANAGEMENT AND MAINTENANCE  
FOR FISCAL YEAR 2008.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to require forthwith a report of expenditures for fiscal year 2008 of the division of capital management and maintenance, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

The secretary of administration and finance shall submit a report to the house and senate clerks who shall forward the same to the house and senate committees on ways and means, the joint committee on bonding, capital expenditures and state assets and the joint committee on transportation not later than January 31, 2009 on all expenditures of the division of capital asset management and maintenance in fiscal year 2008. This report shall include, but not be limited to: the total amount expended on salaries and benefits for the division of capital asset management and maintenance employees and outside contractors, the total amount spent on the administration of the division of capital asset management and maintenance, the total amount spent on the design and development of the division of capital asset management and maintenance projects, the total amount spent on the construction and maintenance of the division of capital asset management and maintenance projects, the total value of all surplus property held by the commonwealth, the annual cost of leasing private space for a state agency; the existence and availability of a state-owned space within each geographical jurisdiction that could accommodate the minimum square footage needs of the agency, and, by each agency, future savings that could be achieved by relocating an office from privately leased space to state-owned space, the cost of maintaining the capital asset management information system, any other cost not included in these categories and the total cost of debt service supporting the administrative and salary expenditures of the division of capital asset management and maintenance in fiscal year 2008.

Approved July 24, 2008.

**Chapter 202. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET  
MANAGEMENT AND MAINTENANCE TO TRANSFER CONTROL  
OF A CERTAIN PARCEL OF LAND IN THE TOWN OF  
LEXINGTON.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the transfer of the care, custody and control of certain land in the town of Lexington, 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 40F 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 transfer care, custody and control of a parcel of state-owned land in the town of Lexington known as the Lexington portion of Lot 1 of the former Middlesex county hospital and formerly under the care, custody and control of the Middlesex county hospital described in section 2, to the commissioner of conservation and recreation for conservation, open space preservation and natural resource protection purposes. The commissioner of conservation and recreation may enter into an agreement with the town of Lexington or a private non-profit conservation organization for restoration, management and maintenance of the parcel as public open space.

**SECTION 2.** The parcel to be transferred under section 1 consists of 47.499 acres and is the Lexington portion of Lot 1, Parcels 2 and 3 shown on "Plan of Land in Waltham & Lexington, (Middlesex Co.) Mass. Surveyed for Geraghty & Miller," by Roberge Associates Land Surveying, dated December 2, 1996 and recorded with the Middlesex county southern district registry of deeds as Plan No. 379 of 1997 in Book 27228, Page 430.

Approved July 24, 2008.

**Chapter 203. AN ACT PROVIDING FOR THE ELECTIONS OF SCHOOL COMMITTEE MEMBERS IN THE SOUTHERN BERKSHIRE REGIONAL SCHOOL DISTRICT.**

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

**SECTION 1.** Notwithstanding section 14E of chapter 71 of the General Laws or any other general or special law to the contrary, the state secretary shall cause to be printed on the ballot to be used in the November 2008 state election in the towns of Alford, Egremont, Monterey, New Marlborough and Sheffield the names and addresses of candidates for the school committee of the Southern Berkshire Regional School District. Members shall be elected with residency requirements in districtwide elections to be held at biennial state elections.

Candidates for the committee shall submit their nomination papers to the registrar of voters of the town not later than 5:00 p.m. on July 29, 2008. The registrar shall complete the certification of signatures not later than 5:00 p.m. on August 12, 2008. A review of the noncertified signatures shall be completed not later than 5:00 p.m. on August 14, 2008. Withdrawals and objections to certified nomination papers shall be filed not later than 5:00 p.m. on August 18, 2008. Certified nomination papers shall be filed with the district clerk no later than 5:00 p.m. on August 19, 2008.



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## **Chap. 203**

The district clerk shall submit the names of candidates to the state secretary in writing not later than August 26, 2008.

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

Approved July 24, 2008.

## **Chapter 204. AN ACT AUTHORIZING THE TOWN OF CHATHAM TO GRANT 2 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 Chatham, may grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises 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 grant 1 of the licenses to a business entity located within the West Chatham Area and the other to a business entity located within the Crowell Road Areas, as more particularly shown on plans which are on file with the board of selectmen.

Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other area. The license may be granted by the licensing authority to a business in the same area if an applicant for the license files with the authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

If the license granted under this section is cancelled, revoked or no longer in use, the license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant who meets the criteria set forth in this act and whose business is located within the applicable subject area.

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

Approved July 24, 2008.

## **Chapter 205. AN ACT FURTHER PROTECTING CHILDREN.**

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

**SECTION 1.** Chapter 265 of the General Laws is hereby amended by striking out

section 13B, as appearing in the 2006 Official Edition, and inserting in place thereof the following 3 sections:-

Section 13B. Whoever commits an indecent assault and battery on a child under the age of 14 shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2½ years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

In a prosecution under this section, a child under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.

Section 13B½. Whoever commits an indecent assault and battery on a child under the age of 14 and:

(a) the indecent assault and battery was committed during the commission or attempted commission of the following offenses:- (1) armed burglary as set forth in section 14 of chapter 266; (2) unarmed burglary as set forth in section 15 of said chapter 266; (3) breaking and entering as set forth in section 16 of said chapter 266; (4) entering without breaking as set forth in section 17 of said chapter 266; (5) breaking and entering into a dwelling house as set forth in section 18 of said chapter 266; (6) kidnapping as set forth in section 26 of chapter 265; (7) armed robbery as set forth in section 17 of said chapter 265; (8) unarmed robbery as set forth in section 19 of said chapter 265; (9) assault and battery with a dangerous weapon or assault with a dangerous weapon, as set forth in sections 15A and 15B of said chapter 265; (10) home invasion as set forth in section 18C of said chapter 265; or (11) posing or exhibiting child in state of nudity or sexual conduct as set forth in section 29A of chapter 272; or

(b) at the time of commission of said indecent assault and battery, the defendant was a mandated reporter as is defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In a prosecution under this section, a child under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.

Section 13B¾. Whoever commits an indecent assault and battery on a child under the age of 14 and has been previously convicted of or adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 as set forth in section 13B; aggravated indecent assault and battery on a child under 14 as set forth in section 13B½; indecent assault and battery on a person 14 or older as set forth in section 13H; assault of a child with intent to commit rape as set forth in section 24B; rape of a child with force as set

forth in section 22A; aggravated rape of a child with force as set forth in section 22B; rape and abuse of a child as set forth in section 23; aggravated rape and abuse of a child as set forth in section 23A; rape as set forth in section 22 or; a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years. The sentence imposed on such person shall not be reduced to less than 15 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 15 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or 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 correction or the department of correction shall be prima facie evidence that the defendant before the court had been convicted previously 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 conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence or live witness testimony to establish the validity of such prior conviction.

**SECTION 2.** Said chapter 265 is hereby further amended by striking out sections 22A and 23, as so appearing, and inserting in place thereof the following 6 sections:-

Section 22A. Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for life or for any term of years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

Section 22B. Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury and:

(a) the sexual intercourse or unnatural sexual intercourse is committed during the commission or attempted commission of any of the following offenses: (1) armed burglary as set forth in section 14 of chapter 266; (2) unarmed burglary as set forth in section 15 of said chapter 266; (3) breaking and entering as set forth in section 16 of said chapter 266; (4) entering without breaking as set forth in section 17 of said chapter 266; (5) breaking and entering into a dwelling house as set forth in section 18 of said chapter 266; (6) kidnapping as set forth in section 26 of chapter 265; (7) armed robbery as set forth in section 17 of said chapter 265; (8) unarmed robbery as set forth in section 19 of said chapter 265; (9) assault



and battery with a dangerous weapon or assault with a dangerous weapon as set forth in sections 15A and 15B of said chapter 265; (10) home invasion as set forth in section 18C of said chapter 265; or (11) posing or exhibiting child in state of nudity or sexual conduct as set forth in section 29A of chapter 272;

(b) the sexual intercourse or unnatural sexual intercourse results in, or is committed by means of an act or acts resulting in, substantial bodily injury as defined in section 13J;

(c) the sexual intercourse or unnatural sexual intercourse is committed while the victim is tied, bound or gagged;

(d) the sexual intercourse or unnatural sexual intercourse is committed after the defendant administered, or caused to be administered, alcohol or a controlled substance by injection, inhalation, ingestion, or any other means to the victim without the victim's consent;

(e) the sexual intercourse or unnatural sexual intercourse is committed by a joint enterprise; or

(f) the sexual intercourse or unnatural sexual intercourse was committed in a manner in which the victim could contract a sexually transmitted disease or infection of which the defendant knew or should have known he was a carrier, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years. The sentence imposed on such person shall not be reduced to less than 15 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 15 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Section 22C. Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury, and has been previously convicted of or adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 as set forth in section 13B; aggravated indecent assault and battery on a child under 14 as set forth in section 13B½; indecent assault and battery on a person 14 or older as set forth in section 13H; assault of a child with intent to commit rape as set forth in section 24B; rape of a child with force as set forth in section 22A; aggravated rape of a child with force as set forth in section 22B; rape and abuse of a child as set forth in section 23; aggravated rape and abuse of a child as set forth in section 23A; rape as set forth in section 22; or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 20 years. The sentence imposed on such person shall not be reduced to less than 20 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 20 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or 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 correction or the department of correction, shall be prima facie evidence that the defendant before the court has been convicted previously 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 conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence or live witness testimony to establish the validity of such prior conviction.

Section 23. Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age, shall be punished by imprisonment in the state prison for life or for any term of years or, except as otherwise provided, for any term in a jail or house of correction. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

Section 23A. Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and:

(a) there exists more than a 5 year age difference between the defendant and the victim and the victim is under 12 years of age;

(b) there exists more than a 10 year age difference between the defendant and the victim where the victim is between the age of 12 and 16 years of age; or

(c) at the time of such intercourse, was a mandated reporter as defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Section 23B. Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and has been previously convicted of or adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 under section 13B; aggravated indecent assault and battery on a child under 14 under section 13B½; indecent assault and battery on a person 14 or older under section 13H; assault of a child with intent to commit rape under section 24B; rape of a child with force under section 22A; aggravated rape of a child with force under section 22B; rape and abuse of a child under section 23; aggravated rape and abuse of a child under section 23A; rape under section 22; or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state

prison for life or for any term of years, but not less than 15 years. The sentence imposed on such person shall not be reduced to less than 15 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 15 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or 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 correction or the department of correction, shall be prima facie evidence that the defendant before the court has been convicted previously 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 conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence or live witness testimony to establish the validity of such prior conviction.

**SECTION 3.** Chapter 271 of the General Laws is hereby amended by striking out section 17B, as so appearing, and inserting in place thereof the following section:-

Section 17B. Except as otherwise prohibited under section 2703 of Title 18 of the United States Code, whenever the attorney general or a district attorney has reasonable grounds to believe that records in the possession of: (i) a common carrier subject to the jurisdiction of the department of telecommunications and cable, as provided in paragraph (d) of section 12 of chapter 159; or (ii) a provider of electronic communication service as defined in subparagraph (15) of section 2510 of Title 18 of the United States Code; or (iii) a provider of remote computing service as defined in section 2711 of Title 18 of the United States Code, are relevant and material to an ongoing criminal investigation, the attorney general or district attorney may issue an administrative subpoena demanding all such records in the possession of such common carrier or service, and such records shall be delivered to the attorney general or district attorney within 14 days of receipt of the subpoena. No such common carrier or service, or employee thereof, shall be civilly or criminally responsible for furnishing any records or information in compliance with such demand. Nothing in this section shall limit the right of the attorney general or a district attorney to otherwise obtain records from such a common carrier or service pursuant to a search warrant, a court order or a grand jury or trial subpoena.

No subpoena issued pursuant to this section shall demand records that disclose the content of electronic communications or subscriber account records disclosing internet locations which have been accessed including, but not limited to, websites, chat channels and newsgroups, but excluding servers used to initially access the internet. No recipient of a subpoena issued pursuant to this section shall provide any such content or records accessed,



in response to such subpoena.

**SECTION 4.** Chapter 276 of the General Laws is hereby amended by inserting after section 1A, the following section:-

Section 1B. (a) As used in this section, the following words shall have the following meanings:-

“Adverse result”, occurs when notification of the existence of a search warrant results in:-

- (1) danger to the life or physical safety of an individual;
- (2) a flight from prosecution;
- (3) the destruction of or tampering with evidence;
- (4) the intimidation of a potential witness or witnesses; or
- (5) serious jeopardy to an investigation or undue delay of a trial.

“Electronic communication services”, shall be construed in accordance with sections 2701 to 2711 Title 18, of the United States Code. This definition shall not apply to corporations that do not provide electronic communication services to the general public.

“Foreign corporation”, any corporation or other entity that makes a contract or engages in a terms of service agreement with a resident of the commonwealth to be performed in whole or in part by either party in the commonwealth. The making of the contract or terms of service agreement shall be considered to be the agreement of the foreign corporation that a search warrant or subpoena which has been properly served on it has the same legal force and effect as if served personally within the commonwealth.

“Massachusetts corporation”, any corporation or other entity that is subject to chapter 155 or chapter 156B.

“Properly served”, delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest certificate filed pursuant to section 15.03 of chapter 156D.

“Remote computing services”, shall be construed in accordance with sections 2701 to 2711, inclusive, of Title 18, of the United States Code. This definition shall not apply to corporations that do not provide those services to the general public.

“Subpoena”, a grand jury or trial subpoena issued in the course of a criminal proceeding or an administrative subpoena issued pursuant to section 17B of chapter 271.

(b) A court or justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the records hereinafter named are actually or constructively possessed by a foreign corporation that provides electronic communication services or remote computing services, if satisfied that probable cause has been established for such belief, issue a warrant identifying those records to be searched for and commanding the person seeking such warrant to properly serve the warrant upon the foreign corporation:-

- (1) those records which would reveal the identity of a customer using those services;
- (2) data stored by or on behalf of a customer;
- (3) records of a customer's usage of those services;
- (4) records of the source of communications sent to or the recipient or destination of communications sent from a customer; or
- (5) the content of those communications stored by an electronic communication or remote computing service.

(c) The following provisions shall apply to any search warrant issued pursuant to this section and to any subpoena issued in the course of a criminal investigation or proceeding directed to a foreign corporation that provides electronic communication services or remote computing services:

(1) when properly served with a search warrant issued by any court of the commonwealth or justice pursuant to this section or a subpoena, a foreign corporation subject to this section shall provide all records sought pursuant to that warrant or subpoena within 14 days of receipt, including those records maintained or located outside the commonwealth;

(2) if the applicant makes a showing and the court or justice finds that failure to produce records within less than 14 days would cause an adverse result, a warrant may require production of records within less than 14 days;

(3) a court or justice may reasonably extend the time required for production of the records upon finding that the foreign corporation has shown good cause for that extension and that an extension of time would not cause an adverse result;

(4) a foreign corporation seeking to quash a warrant or subpoena served on it pursuant to this section shall seek relief from the court that issued the warrant or the court which has jurisdiction over the subpoena within the time required for production of records pursuant to this section. The court shall hear and decide such motion not later than 14 days after the motion is filed;

(5) in the case of an administrative subpoena issued by the attorney general, the superior court of Suffolk county shall have jurisdiction and in the case of an administrative subpoena issued by a district attorney, the superior court in any county in which the district attorney maintains an office shall have jurisdiction; and

(6) the foreign corporation shall verify the authenticity of records that it produces by providing an affidavit from the person in custody of those records certifying that they are true and complete.

(d) A Massachusetts corporation that provides electronic communication services or remote computing services, when served with a warrant or subpoena issued by another state to produce records that would reveal the identity of the customers using those services, data stored by, or on behalf of the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if that warrant or subpoena had been issued under the law of the commonwealth.

(e) No cause of action shall lie against any foreign or Massachusetts corporation subject to this section, its officers, employees, agents or other persons for providing records, information, facilities or assistance in accordance with the terms of a warrant or subpoena issued pursuant to this section.

**SECTION 5.** Notwithstanding any general or special law to the contrary, the chief justice for administration and management of the trial court shall establish and implement an annual reporting system that shall provide information to the joint committee on the judiciary relative to the prosecution and disposition of cases which involve offenses established under this act. The reporting system shall be established not later than December 31, 2008, and the first annual report shall be filed with the clerk of the house and the clerk of the senate and the joint committee on the judiciary not later than December 31, 2009.

Approved July 24, 2008.

## **Chapter 206. AN ACT RELATIVE TO CLEAN ENERGY BIOFUELS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate production and use of clean biofuels to reduce oil dependence and greenhouse gas emissions in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Chapter 64A of the General Laws is hereby amended by striking out section 1, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2 sections:-

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

“Appellate tax board”, the board established by section 1 of chapter 58A.

“Average price”, the weighted average selling price per gallon of fuel exclusive of federal and state motor fuel taxes imposed thereon sold by licensees, as determined by the commissioner on a consistent basis from information furnished by distributors, unclassified exporters and unclassified importers with their monthly returns and from other statistical data reflecting the average level of such prices at the time such determination is made.

“Cellulosic biofuel”, fuel that may be used in place of petroleum-based fuel derived from cellulose, hemicellulose or lignin derived from renewable biomass.

“Commissioner”, the commissioner of revenue.

“Department”, the department of energy resources within the executive office of energy and environmental affairs.



“Distributor”, shall include: (1) any person qualified to do business in the commonwealth who produces, refines, manufactures or compounds fuel, as herein defined, or any person who operates a port or pipe line terminal within the commonwealth for the receipt of fuel, as herein defined; and (2) any person who elects to qualify as a distributor by importing into the commonwealth or by receiving within the commonwealth fuel, as herein defined, by pipe line, vessel, tank car or tank truck lots, for resale in pipe line, vessel, tank car or tank truck lots; provided, that no person under clause (2) shall qualify as a distributor unless his facilities is regularly used for the receipt and storage of fuel, as herein defined, are such that not less than 25,000 gallons may be stored in the aggregate, at 1 location within the commonwealth; and provided, further, that at least 75 per cent of the fuel imported or received by him is sold to others for resale exclusive of sales to government instrumentalities.

“Eligible cellulosic biofuel”, cellulosic biofuel that yields at least a 60 per cent reduction in lifecycle greenhouse gas emissions relative to average lifecycle greenhouse gas emissions for petroleum based fuel sold in 2005, as determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Feedstock”, raw material used to produce a fuel.

“Fuel”, all products commonly or commercially known or sold as gasoline, including casing-head and absorption or natural gasoline, regardless of their classification or uses; and any liquid prepared, for American Society Testing Materials Method D-86, not more than 9 per cent at 176° Fahrenheit, and which have a distillation range of 150° Fahrenheit, or less, or liquefied gases which would not exist as advertised, offered for sale, or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) show not less than 10 per cent distilled (recovered) below 347° Fahrenheit (175° Centigrade) and not less than 95 per cent distilled (recovered) below 464° Fahrenheit (240° Centigrade); provided, that the term “fuel” shall not include industrial solvents or naphthas which distill, by said American Society liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute. For the purposes of this chapter, “fuel” shall include products sold or used as fuel for aircraft, except aircraft fuel as defined in section 1 of chapter 64J.

“Lifecycle greenhouse gas emissions”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from and use changes, as determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming

potential.

“Low carbon fuel standard”, a requirement that the average lifecycle greenhouse gas emissions attributable to use of energy in an economic sector are equal to or less than a specified numeric level, or a similar standard or system, such as the requirement contained in California Executive Order S-1-07. The level may be stated as units of greenhouse gas emissions per unit of delivered energy, corrected for differences in the efficiency of the energy in the particular end use; for example the difference between efficiency of a gasoline engine and an electric motor in powering a vehicle. The standard may apply to energy used in motor vehicles or to another energy consuming sector.

“Motor vehicle”, shall include any vehicle propelled by any power other than muscular, except boats, tractors used exclusively for agricultural purposes and such vehicles as run only on rails or tracks.

“Purchaser”, shall include, in addition to its usual meaning, a distributor and unclassified importer in the case of a transfer of fuel by a distributor or an unclassified importer into a motor vehicle, or into a receptacle from which fuel is supplied by him to his own or other motor vehicles.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and demolition debris; and algae, or as otherwise determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Sale”, shall include, in addition to its usual meaning, the transfer of fuel by a distributor or an unclassified importer into a motor vehicle or into a receptacle from which fuel is supplied by him to his own or other motor vehicles.

“Tax per gallon”, shall be 21 cents per gallon. For aviation fuel, “tax per gallon” shall mean  $7\frac{1}{2}$  per cent of the average price, as determined by the commissioner, for each calendar quarter, computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be less than 10 cents per gallon.

“To sell”, in all of its moods and tenses, shall refer to a sale as herein defined.

“Unclassified importer”, any person who imports or causes to be imported fuel, as herein defined, for use, distribution or sale in the commonwealth, but who does not qualify as a distributor.

“Unclassified exporter”, any person licensed as a distributor in another state who exports or causes to be exported fuel, as herein defined, for use, distribution or sale outside the commonwealth, but who does not qualify as a distributor.

“Waste feedstock”, previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater or grease trap waste. Waste feed-

stock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

Section 1A. Notwithstanding the definition of “tax per gallon” in section 1 and subject to section 2O of chapter 29, for fuel consisting of eligible cellulosic biofuel or of a blend of gasoline and eligible cellulosic biofuel, the tax per gallon shall be reduced in proportion to the percentage of the fuel content consisting of eligible cellulosic biofuel, measured by available energy content, as determined by the department of energy resources, hereinafter referred to as the department.

Manufacturers and wholesale distributors of cellulosic biofuel who seek to have their fuel classified as eligible cellulosic biofuel shall provide documentation satisfactory to the department that such fuel yields at least a 60 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum-based fuel displaced.

In determining the percentage reduction in lifecycle greenhouse gas emissions relative to petroleum-based fuel achieved by particular supplies of cellulosic biofuel, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal government, foreign governments, academic research and private and non-profit organizations.

If the department determines through an initial review that a waste feedstock will yield at least a 60 per cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste and meets any other conditions established by the department, the department may exempt fuel produced from such a feedstock from a full lifecycle greenhouse gas emissions analysis.

The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall promulgate rules and regulations necessary to carry out the provisions of this section.

**SECTION 2.** Chapter 94 of the General Laws is hereby amended by inserting after section 249H the following section:—

Section 249H½. (1) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“BQ-9000”, the National Biodiesel Accreditation Program for producers and marketers of biodiesel fuel, operated by the National Biodiesel Accreditation Commission.

“Commissioner”, the commissioner of the department of energy resources.

“Department”, the department of energy resources within the executive office of energy and environmental affairs.

“Eligible petroleum distillate substitute fuel”, petroleum distillate substitute fuel that yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions relative to average lifecycle greenhouse gas emissions for petroleum distillate fuel sold in 2005, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.



“Feedstock”, the raw material used to produce a fuel.

“Lifecycle greenhouse gas emissions”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“Low carbon fuel standard”, a legal requirement that the average lifecycle greenhouse gas emissions attributable to use of energy in an economic sector are equal to or below a specified numeric level, or a similar standard or system, such as the requirement contained in California Executive Order S-1-07. The level may be stated as units of greenhouse gas emissions per unit of delivered energy, corrected for differences in the efficiency of the energy in the particular end use; for example the difference between efficiency of a gasoline engine and an electric motor in powering a vehicle. The standard may apply to energy used in motor vehicles or to another energy consuming sector.

“Petroleum distillate substitute fuel”, fuel that is derived predominantly from renewable biomass; and meets American Society for Testing and Materials specifications for use in home heating applications, or such other quality certification standards as are approved by the department. For industrial and commercial applications, the department may substitute operational performance requirements that it determines are acceptable.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and demolition debris; and algae, or as otherwise determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Waste feedstock”, previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater or grease trap waste. Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

(2) Manufacturers and wholesale distributors of petroleum distillate substitute fuel who seek to have their fuel classified as eligible petroleum distillate substitute fuel shall provide documentation satisfactory to the department that such fuel yields at least a 50 per

cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum distillate fuel displaced.

In determining the percentage lifecycle greenhouse gas reductions achieved by particular fuels, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal government, foreign governments, academic research and private and non-profit organizations.

If the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, determines through an initial review that a particular waste feedstock will clearly yield at least a 50 per cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste, and meets any other conditions set by regulations promulgated by the department, the department may exempt fuel produced from such a material from a full lifecycle greenhouse gas emissions analysis.

For supplies that the department determines meet the criteria above for reductions in greenhouse gas emissions, the department shall certify the supplies as eligible petroleum distillate substitute fuel and shall provide documentation or certificates to suppliers of such fuel showing the number of gallons of neat eligible petroleum distillate substitute fuel supplied. The department shall, by regulation, determine which suppliers the documentation shall apply to, and shall create a mechanism for tracking such supplies.

(3) Except as provided in paragraph (4), the following shall apply to all number 2 petroleum distillate fuel and all other liquid fuel sold as a substitute for number 2 distillate fuel, offered for sale to end-users, retail sellers or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in residential, commercial or industrial heating applications. Such fuel must contain at least 2 per cent eligible petroleum distillate substitute fuel, measured by available energy content or as otherwise provided by the department, no later than July 1, 2010. Except as provided in subsection (4), all such fuel must contain at least 3 per cent eligible petroleum distillate substitute fuel no later than July 1, 2011, 4 per cent eligible petroleum distillate substitute fuel no later than July 1, 2012, and 5 per cent eligible petroleum distillate substitute fuel no later than July 1, 2013.

The department shall study the feasibility of applying the percentage requirements above to number 4 and number 6 petroleum distillate fuel, including whether blends of eligible petroleum distillate substitute fuel with number 4 or number 6 petroleum distillate fuel will operate correctly in applicable heating equipment. If the department determines that doing so is feasible, it shall extend the percentage requirements above to number 4 and number 6 petroleum distillate fuel.

The department may delay these implementation dates for the period of time which it determines, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible petroleum distillate substitute fuel to end-use consumers is not feasible due

to lack of supply, lack of blending facilities or unreasonable cost. If the department delays implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days of such decision with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, the joint committee on environment, natural resources and agriculture and the joint committee on transportation explaining the reasons for any such decision to delay implementation.

If a low carbon fuel standard or a similar standard or system, that will achieve equal or greater reductions in greenhouse gas emissions to the minimum content requirement for eligible petroleum distillate substitute fuel specified by this section, is adopted by the commonwealth, or a standard applying to the commonwealth is adopted by the federal government; then at least 60 days prior to the effective date of the standard the department of environmental protection shall submit a statement to the general court that the standard will become effective on the particular date, and the department of environmental protection's determination that the standard will achieve the specified reduction in emissions. If the general court takes no action, the minimum content requirement specified by this section shall expire on the date that the regulations implementing the standard or system becomes effective, or at such other date specified by the department, but in any case within 1 year of implementation of the regulations. If the department chooses an expiration date other than the effective date of the regulations it shall submit a statement to the general court explaining its reasons for doing so prior to said effective date.

(4) The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall study the feasibility, benefits and costs, including benefits and costs to consumers, producers and the state government, of making the percentage mandates in subsection (3) apply on a statewide average basis rather than for every gallon of petroleum distillate fuel sold for heating purposes. If the department determines that such a system is feasible and that its benefits substantially exceed its costs, the department shall have the authority to implement such a system. The department shall determine on which entities the percentage requirements shall be applied. If the department implements such a system, the department shall promulgate regulations allowing and tracking sales of certificates or other documentation from the department that show use of eligible petroleum distillate substitute fuel in the commonwealth. Entities may meet their percentage requirements for use of eligible petroleum distillate substitute fuel by purchasing certificates or other documentation, and such certificates may be re-sold.

(5) Manufacturers and wholesale distributors of eligible petroleum distillate substitute fuel, and of fuel blended from petroleum distillate and eligible petroleum distillate substitute, doing business in the commonwealth shall furnish samples of such products to the department, shall permit the entry and inspection by the department or the department of environmental protection of the premises of such manufacturers or distributors, and the inspection and sampling of fuel stored thereon.



(6) Manufacturers of eligible petroleum distillate substitute fuel that is sold in the commonwealth shall meet quality assurance criteria or accreditation requirements determined by the department, in consultation with the department of environmental protection. Manufacturers shall submit documentation of quality assurance or accreditation to the department by November 1, 2009, or at least 3 months prior to the date on which the department certifies their fuel as eligible petroleum distillate substitute fuel, and shall submit documentation to the department showing that their accreditation remains current every 2 years thereafter.

(7) The department shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for producers and wholesale distributors of petroleum distillate substitute fuel and petroleum distillate fuel blended with petroleum distillate substitute fuel operating in the commonwealth. If the department concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the department shall promulgate regulations to implement an accreditation requirement.

(8) The department shall promulgate regulations to implement the provisions of this section.

(9) No person shall sell or offer to sell petroleum distillate heating fuel in the commonwealth, including eligible petroleum distillate substitute fuel that does not conform to the provisions of this section.

(10) Notwithstanding section 249H, failure to comply with subsection (9) of this section shall constitute an unfair or deceptive act under chapter 93A, and may be enforced as provided therein.

**SECTION 3.** Said chapter 94 is hereby further amended by inserting after section 295G the following section:—

Section 295G½. (1) As used in this section, the following words shall have the following meanings:—

“BQ-9000”, the National Biodiesel Accreditation Program for producers and marketers of biodiesel fuel, operated by the National Biodiesel Accreditation Commission.

“Commissioner”, the commissioner of the department of energy resources.

“Department”, the department of energy resources within the executive office of energy and environmental affairs.

“Diesel substitute fuel”, fuel that is derived predominantly from renewable biomass; that meets American Society for Testing and Materials specifications for use in diesel engines, or that meets such other quality certification standards as are approved by the department for the application involved. For diesel substitute fuel used in on-road motor vehicles, the fuel shall meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under section 211C of the Clean Air Act, 42 USC section 7545.

“Eligible diesel substitute fuel”, diesel substitute fuel that yields at least a 50 per cent

reduction in lifecycle greenhouse gas emissions relative to average emissions for petroleum-based diesel fuel sold in 2005, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Feedstock”, the raw material used to produce a fuel.

“Lifecycle greenhouse gas emission”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“Low carbon fuel standard”, a legal requirement that the average lifecycle greenhouse gas emissions attributable to use of energy in an economic sector are equal to or below a specified numeric level, or a similar standard or system, such as the requirement contained in California Executive Order S-1-07. The level may be stated as units of greenhouse gas emissions per unit of delivered energy, corrected for differences in the efficiency of the energy in the particular end use; for example the difference between efficiency of a gasoline engine and an electric motor in powering a vehicle. The standard may apply to energy used in motor vehicles or to another energy consuming sector.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and demolition debris; and algae, or as otherwise determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Waste feedstock”, previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater and grease trap waste. Waste feedstocks shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

(2) Manufacturers and wholesale distributors of diesel substitute fuel doing business in the commonwealth who wish to have their fuel classified as eligible diesel substitute fuel shall provide documentation satisfactory to the department that such fuel yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum-based diesel fuel displaced.

In determining the percentage lifecycle greenhouse gas reductions achieved by particular fuels, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal Environmental Protection Agency, foreign governments, academic research and private and non-profit organizations.

If the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, determines through an initial review that a particular waste feedstock will clearly yield at least a 50 per cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste, and meets any other conditions set by regulations promulgated by the department, the department may exempt fuel produced from such a material from a full lifecycle greenhouse gas emissions analysis.

For supplies that the department determines meet the criteria above for reductions in greenhouse gas emissions, the department shall, by regulation, certify the supplies as eligible diesel substitute fuel and shall provide documentation or certificates to suppliers of such fuel showing the number of gallons of neat eligible diesel substitute fuel supplied. The department shall, by regulation, determine which suppliers the documentation shall apply to, and create a mechanism for tracking such supplies.

(3) Except as provided in subsection (4), the following shall apply to all diesel motor vehicle fuel and all other liquid fuel used in motor vehicle diesel engines, offered for sale to end-users, retail sellers or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in transportation. All such fuel must contain at least 2 per cent eligible diesel substitute fuel, measured by available energy content or in such other manner as determined by the department no later than July 1, 2010. Except as provided in subsection (4), all such fuel must contain at least 3 per cent eligible diesel substitute fuel no later than July 1, 2011, 4 per cent eligible diesel substitute fuel no later than July 1, 2012, and 5 per cent eligible diesel substitute fuel no later than July 1, 2013.

The department may delay these implementation dates for the period of time which it determines, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible diesel substitute fuel to end-use consumers is not feasible due to lack of supply, lack of blending facilities or unreasonable cost. If the department delays implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days of such decision with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, the joint committee on environment, natural resources and agriculture and the joint committee on transportation explaining the reasons for any such decision to delay implementation.

If a low carbon fuel standard or a similar standard or system, that will achieve equal



or greater reductions in greenhouse gas emissions to the minimum content requirement specified by this section is adopted by the commonwealth, or a standard applying to the commonwealth is adopted by the federal government, then at least 60 days prior to the effective date of the standard, the department shall submit a statement to the general court that the standard shall become effective on the particular date, and the department of environmental protection's determination that the standard will achieve the specified reduction in emissions. If the general court takes no action, the minimum content requirement specified by this section shall expire on the date that the regulations implementing the standard or system becomes effective, or at such other date specified by the department, but in any case within 1 year of implementation of the regulations. If the department chooses an expiration date other than the effective date of the regulations it shall submit a statement to the general court explaining its reasons for doing so prior to said effective date.

(4) The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall study the feasibility, benefits and costs, including benefits and costs to consumers, producers and the commonwealth, of making the percentage mandates in subsection (3) apply on a statewide average basis rather than for every gallon of diesel motor fuel sold. If the department implements such a system, the department shall promulgate regulations allowing and tracking sales of certificates or other documentation from the department that show use of eligible diesel substitute fuel in the commonwealth. Entities may meet their percentage requirements for use of eligible diesel substitute fuel by purchasing certificates or other documentation, and such certificates may be re-sold.

(5) Manufacturers and wholesale distributors of eligible diesel substitute fuel, and of fuel blended from petroleum diesel and eligible diesel substitute, doing business in the commonwealth shall furnish samples of such products to the department, shall permit the entry and inspection by the division and department of the premises of such manufacturers or distributors and the inspection and sampling of fuel stored thereon.

(6) Manufacturers of eligible diesel substitute fuel that is sold in the commonwealth shall meet quality assurance criteria or accreditation requirements determined by the department, in consultation with the department of environmental protection. Manufacturers shall submit documentation of quality assurance or accreditation to the department on or before November 1, 2009, or at least 3 months prior to the date on which the department certifies their fuel as eligible diesel substitute fuel, and must submit documentation to the department showing that their accreditation remains current every 2 years thereafter.

(7) The department shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for producers and wholesale distributors of diesel substitute fuel and petroleum-based motor fuel blended with diesel substitute fuel operating in the commonwealth. If the department concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the department shall promulgate regulations to implement an accreditation requirement.

(8) The department shall promulgate regulations to implement the provisions of this section.

(9) No person shall sell or offer to sell heating fuel, including eligible diesel substitute fuel, that does not conform to this section.

(10) Notwithstanding section 249H, failure to comply with subsection (9) shall constitute an unfair or deceptive act under the provisions of chapter 93A, and may be enforced as provided therein.

**SECTION 4.** The division of energy resources, in consultation with the department of revenue, shall promulgate regulations concerning the timing and form of documentation that will enable the department to determine the appropriate tax revenue to be collected pursuant to this act.

**SECTION 5.** There is hereby established a special commission to study the feasibility and effectiveness of various forms of incentives to promote the development and use of advanced biofuels in the commonwealth including, but not limited to: production credits, the production and harvesting of woody biomass or woody residue, feedstock incentives and direct consumer credits for the use of advanced biofuels in various applications. The commission shall be comprised of 11 members: 3 of whom shall be appointed by the speaker of the house of representatives, 1 of whom shall be the house chair of the joint committee on telecommunication, utilities and energy, who shall serve as co-chair; 1 of whom shall be appointed by the house minority leader; 3 of whom shall be appointed by the senate president, 1 of whom shall be the senate chair of the joint committee on telecommunication, utilities and energy, who shall serve as co-chair; 1 of whom shall be appointed by the senate minority leader; and 3 of whom shall be appointed by the governor, 1 of whom shall be the secretary of the executive office of energy and environmental affairs, or his designee, and 1 of whom shall be employed by a company that works in the field of advanced biofuels. In conducting its investigation and study, the commission shall consider biofuel incentive programs in other states and the commonwealth's relative competitiveness in the field.

The commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means on or before March 31, 2009.

**SECTION 6.** The governor and the secretary of energy and environmental affairs shall develop and enter into, to the extent possible, an agreement among those states participating in the Regional Greenhouse Gas Initiative, for the purpose of implementing a low carbon fuel standard hereinafter referred to as LCFS, for transportation fuels; provided, however, that when possible:

(1) the LCFS shall be measured on a full fuels cycle basis;

(2) the LCFS may be met through market-based methods by which providers exceeding the performance required by an LCFS shall receive credits that may be applied to future obligations or traded to providers not meeting the LCFS;

(3) the agreement shall establish a declining standard for greenhouse gas emissions measured in CO<sub>2</sub>-equivalent grams per unit of fuel energy sold, sufficient to achieve a 10 per cent reduction in the carbon content of all passenger vehicle fuels sold in participating states; and

(4) the commonwealth shall, with the other states participating in the agreement, examine the regulations and implementation of a low carbon fuel standard in California and other states and shall consider ways to coordinate and issue public findings on both such matters, and shall, if applicable, use in the agreement the life-cycle analysis methods employed by the California Air Resources Board to determine the carbon intensity of fuel.

**SECTION 7.** There shall be a special commission to investigate and develop a strategy to increase the use of advanced biofuels as alternatives to conventional carbon-based fuels by the commonwealth, its agencies and political subdivisions and regional transit authorities.

The commission shall consist of the secretary of administration and finance or his designee, the secretary of energy and environmental affairs, who shall serve as the chair, the commissioner of energy resources, commissioner of the department of public utilities, the commissioner of revenue or his designee, the general manager of the Massachusetts Bay Transportation Authority or his designee, and 6 members to be appointed by the governor, 2 of whom shall represent the Massachusetts Municipal Association, 2 of whom shall represent regional transit authorities, 1 of whom shall represent environmental organizations in the commonwealth, and 1 of whom shall represent suppliers of motor fuels in the commonwealth.

The commission shall develop strategies to increase the use of advanced biofuels by the commonwealth, its agencies and political subdivisions and regional transit authorities and methods to advance those strategies. Methods to be considered shall include, but not be limited to: financing mechanisms including grants, loans and other incentive programs for group procurement of advanced biofuels, vehicles using advanced biofuels and distribution infrastructure and technical assistance.

The commission shall file a report detailing its strategies and methods and its recommendations, if any, and cost estimates together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the senate and house of representatives on or before April 15, 2009.

**SECTION 8.** Section 1 shall be effective for tax years beginning January 1, 2009 and ending December 31, 2017.

Approved July 28, 2008.



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**Chapter 207. AN ACT AUTHORIZING THE TOWN OF MILTON TO ISSUE ONE ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES OF A CERTAIN RESTAURANT.**

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

**SECTION 1.** Notwithstanding sections 11 and 17 of chapter 138 of the General Laws, the licensing authority of the town of Milton may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises to the restaurant located at 550 Adams street, which is owned by Vance Welch or his successor in interest; provided, however, that any successor in interest shall be subject to approval by the board of selectmen and the alcoholic beverages control commission; provided further, that an application to transfer the license to a successor in interest shall be granted and approved according to the standard for a new license. All of the procedures set forth in section 15A of said chapter 138 shall apply to the granting of a license to a successor in interest. The license shall be subject to all of said chapter 138, except said section 17. The licensing authority shall not approve the transfer of the license to any other location. The license may be re-issued by the licensing authority at the same location if an applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

If the license granted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority of the town of Milton and the licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in this act.

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

Approved July 28, 2008.

**Chapter 208. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARK STANTON, AN EMPLOYEE OF THE DEPARTMENT OF PUBLIC HEALTH.**

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 public health, 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 public health shall establish a sick leave bank for Mark Stanton, an employee

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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 Mark Stanton. Whenever Mark Stanton terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved July 28, 2008.

**Chapter 209. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF AMESBURY TO GRANT 2 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding sections 12 and 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the city known as the town of Amesbury may grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises. One of the licenses shall be granted to Logan's Dad, Inc., d/b/a Roobar, located at 36 Main street, and 1 shall be granted to a commercially-zoned establishment. Once issued, the licensing authority shall not approve the transfer of the licenses to any other locations.

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

Approved July 28, 2008.

**Chapter 210. AN ACT INCREASING THE NUMBER OF LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES IN THE CITY OF MEDFORD.**

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

**SECTION 1.** (a) Notwithstanding sections 11 and 17 of chapter 138 of the General Laws, any vote cast in the city of Medford pursuant to chapter 595 of the acts of 1977 or any other general or special law or any rule or regulation to the contrary, the licensing authority of the city of Medford may, subject to the approval of the alcoholic beverages control commission, grant not more than 25 licenses for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138 to restaurants with a seating capacity of at least 19 persons.

(b) The licenses shall be granted in economic development areas, the boundaries of which are described as follows in accordance with the 2000 United States census:

- (i) West Medford Area: Census Tracts 3393 and 3392;
- (ii) Medford Square Area: Census Tract 3391;
- (iii) Hillside Area: Census Tracts 3394, 3395, 3399 and 3400;
- (iv) South Medford Area: Census Tracts 3396 and 3397; and
- (v) Wellington Area: Census Tract 3398.

(c) A license granted under this section shall only be exercised in the dining room of a restaurant and in such other public rooms or areas as may be deemed reasonable and proper by the licensing authority as certified in writing. The licensing authority shall not require as a condition to granting of a license under this section that parking be provided for the licensed establishment other than the parking that is required by applicable zoning laws or regulations. Licenses granted under this section shall be subject to all of said chapter 138 except said sections 11 and 17.

(d) The licensing authority shall not approve the transfer of a license under this act to any area outside the economic development area but a license may be re-issued by the licensing authority to an establishment within that area if the applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

(e) If a license granted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto to the licensing authority and the licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in this act.

(f) Notwithstanding any general or special law to the contrary, the licensing authority may grant special licenses for the sale of wines and malt beverages to be drunk on the premises pursuant to section 14 of said chapter 138 and the granting of such special licenses shall be subject to the same conditions for the granting of licenses pursuant to section 12 of said chapter 138 as specified in this act.

**SECTION 2.** Chapter 75 of the acts of 2001 is hereby repealed.

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

Approved July 28, 2008.

**Chapter 211. 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 certain exemption from the sales tax, 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 16, 2008 and August 17, 2008, an excise shall not be imposed upon nonbusiness sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. 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 the price of which is in excess of \$2,500.

**SECTION 2.** Notwithstanding any general or special law to the contrary, for the days of August 16, 2008, and August 17, 2008, a vendor shall not add to the sales price or collect from a nonbusiness 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 a vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 16, 2008 and August 17, 2008. An excise erroneously or improperly collected during the days of August 16, 2008, and August 17, 2008, shall be remitted to the department of revenue. 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 a single item the price of which 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 16, 2008, and August 17, 2008.

**SECTION 4.** On or before December 31, 2008, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with the joint committee on revenue and the house and senate committees on ways and means 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, without this act.

**SECTION 5.** The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act.

**SECTION 6.** Eligible sales at retail of tangible personal property under sections 1 and 2 are restricted to those transactions occurring on August 16, 2008 and August 17, 2008. Transfer of possession of or payment in full for the property shall occur on 1 of those days, and prior sales or layaway sales shall be ineligible.

Approved July 30, 2008.

**Chapter 212. AN ACT ESTABLISHING A SICK LEAVE BANK FOR KAREN FOWLES, AN EMPLOYEE OF THE MASSACHUSETTS REHABILITATION COMMISSION.**

*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 Massachusetts rehabilitation commission, 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 Massachusetts rehabilitation commission shall establish a sick leave bank for Karen Fowles an employee of the commission. Any employee of the commission may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Karen Fowles. Whenever Karen Fowles terminates employment with the commission or request to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the commission.

Approved July 30, 2008.

**Chapter 213. AN ACT RELATIVE TO EDUCATIONAL EXPENDITURES IN THE TOWN OF MILTON.**

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

**SECTION 1.** Notwithstanding section 72 of chapter 44 of the General Laws or any other general or special law to the contrary, funds received by the town of Milton under said section 72 of said chapter 44 shall not be considered unrestricted revenue of the town of Milton. The town of Milton shall deposit in a separate account for expenditures by the Milton school committee all such funds received. The Milton school committee may make expenditures from the separate account for any lawful educational purpose without further appropriation. An expenditure from the account on items qualifying as net school spending shall supplement the net school spending requirement of the district. The receipt of such funds shall not affect the calculation of the minimum required local contribution and state school aid as defined in section 2 of chapter 70 of the General Laws.

**SECTION 2.** This act shall apply to funds received by the town of Milton under section 72 of chapter 44 of the General Laws during fiscal year 2009 and thereafter.

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

Approved July 30, 2008.

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## **Chapter 214. AN ACT INCREASING COVERAGE OF NONPRESCRIPTION ENTERAL FORMULAS.**

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

**SECTION 1.** Section 17A of chapter 32A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 10, the words “two thousand five hundred dollars ” and inserting in place thereof the following figure:— \$5,000.

**SECTION 2.** Section 47I of chapter 175 of the General Laws, as so appearing , is hereby amended by striking out, in lines 11 and 12, the words “two thousand five hundred dollars ” and inserting in place thereof the following figure:— \$5,000.

**SECTION 3.** Section 8L of chapter 176A of the General Laws, as so appearing , is hereby amended by striking out, in line 12, the words “two thousand five hundred dollars ” and inserting in place thereof the following figure:— \$5,000.

**SECTION 4.** Section 4K of chapter 176B of the General Laws, as so appearing , is hereby amended by striking out, in lines 13 and 14, the words “two thousand five hundred dollars ” and inserting in place thereof the following figure:— \$5,000.

**SECTION 5.** Section 4D of chapter 176G of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “two thousand five hundred dollars ” and inserting in place thereof the following figure:— \$5,000.

Approved July 30, 2008.

## **Chapter 215. AN ACT RELATIVE TO EARLY EDUCATION AND CARE.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to ensure forthwith the orderly establishment of an early education and care system, therefore it is hereby declared an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Chapter 6 of the General Laws is hereby amended by striking out section 172F, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 172F. Notwithstanding section 172, the following information shall be available, upon request, to the department of early education and care for the purposes of evaluating any residence, facility, program, system or other entity licensed under chapter 15D whether public or private, or any non-relative, in-home child care provider that receives federal or state funding in order to further the protection of children: conviction data, arrest data, sealed record data and juvenile arrest or conviction data. The department of early edu-



cation and care shall not disseminate this information for any purpose other than to further the protection of children.

**SECTION 2.** Section 178J of said chapter 6, as so appearing, is hereby amended by striking out, in line 32, the word “day” and inserting in place thereof the following word:- child.

**SECTION 3.** Section 181 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words “the office for children” and inserting in place thereof the following words:- early education and care.

**SECTION 4.** Section 203 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 46 and 47, the words “, with the exception of local councils of the office for children”.

**SECTION 5.** Section 208 of said chapter 6, as so appearing, is hereby amended by striking out, in line 14, the words “office of child care services” and inserting in place thereof the following words:- department of early education and care.

**SECTION 6.** The second paragraph of section 215 of said chapter 6, as appearing in section 13 of chapter 176 of the acts of 2008, is hereby amended by striking out the words “day care” and inserting in place thereof the following words:- child care.

**SECTION 7.** Section 16 of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out, in line 27, the following words “, the office of child care services”.

**SECTION 8.** Section 40E of chapter 7 of the General Laws, as so appearing, is hereby amended by inserting, after the word “fifteen”, in line 19, the following words:- ; section 2 of chapter 15D.

**SECTION 9.** Said section 40E of said chapter 7 of the General Laws, as so appearing, is hereby amended by striking out, in line 25, the words “section three of chapter twenty-eight A”.

**SECTION 10.** Section 1G of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “early childhood education; life” and inserting in place thereof the following word:- life.

**SECTION 11.** Said section 1G of said chapter 15, as so appearing, is hereby further amended by striking out the seventh paragraph.

**SECTION 12.** Said section 1G of said chapter 15, as so appearing, is hereby further amended by striking out, in line 54, the words “the office for children” and inserting in place thereof the following words:- the department of early education and care.

**SECTION 13.** Section 54 of said chapter 15, as so appearing, is hereby amended by inserting after the word “board”, in line 1, the following words:- of early education and care.

**SECTION 14.** Said section 54 of said chapter 15, as so appearing, is hereby further amended by inserting after the word “department”, in line 4, the following words:- of early education and care.

**SECTION 15.** Said section 54 of said chapter 15, as so appearing, is hereby further amended by striking out subsection (b).

**SECTION 16.** Subsection (g) of said section 54 of said chapter 15, as so appearing, is hereby further amended by striking out the second and third sentences.

**SECTION 17.** Said section 54 of said chapter 15, as so appearing, is hereby amended by striking out, in lines 86 and 87, the words “executive office of health and human services” and inserting in place thereof the following words:- department of early education and care.

**SECTION 18.** Said section 54 of said chapter 15, as so appearing, is hereby further amended by striking out, in line 88, the words “executive office” and inserting in place thereof the following word:- department.

**SECTION 19.** Said section 54 of said chapter 15, as so appearing, is hereby further amended by striking out subsections (j) and (k).

**SECTION 20.** Said section 54 of said chapter 15 is hereby repealed.

**SECTION 21.** Section 1 of chapter 15D of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “nurture for” and inserting in place thereof the following word:- nurturing.

**SECTION 22.** Said chapter 15D is hereby further amended by inserting after section 1 the following section:-

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

“Adoption”, the establishment of the legal relationship of parent and child pursuant to chapter 210.

“Board”, the board of early education and care.

“Child”, any person under the age of 18 or under the age of 22 if that person is a child with special needs.

“Child with special needs”, a child who, because of temporary or permanent disabilities arising from intellectual, sensory, emotional, physical, or environmental factors, or other specific learning disabilities, is or would be unable to progress effectively in a regular school program.

“Child care center”, a facility operated on a regular basis whether known as a child nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage under 7 years of age, or under 16 years of age if those children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Child care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of that system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization in which children are cared for during short periods of time while persons responsible for the children

are attending religious services; a family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

“Child of working parents”, a child of a 2-parent family in which both parents work either full-time or part-time, or a child of a single-parent family in which the parent works either full-time or part-time.

“Commissioner”, the commissioner of early education and care.

“Curriculum frameworks”, curriculum frameworks established under section 1E of chapter 69.

“Department”, the department of early education and care.

“Early education and care program”, a public or privately sponsored non-residential program, which provides for the care and education of school-aged children when not attending school, or infants, toddlers, or preschool children by someone other than members of the child’s family, and which involves and supports the child’s parents or guardians and is appropriate to the development of the child, including: in-home care, homemaker services, family child care homes, group child care homes, large family child care homes, full-day child care centers, part-day preschool programs and nursery schools, private kindergartens, mental health consultation and intervention programs, or temporary shelter care programs and programs which offer night care.

“Family child care home”, a private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under 7 years of age, or children under 16 years of age if those children have special needs, and receives for temporary custody and care for a limited number of hours children of school age under regulations adopted by the board. The total number of children under 16 in a family child care home shall not exceed 6, including participating children living in the residence. Family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation.

“Family child care system”, a person who, through contractual arrangement, provides to family child care homes, which have been approved as members of that system, central administrative functions including, but not limited to: training of operators of family child care homes; technical assistance and consultation to operators of family child care homes; inspection, supervision, monitoring and evaluation of family child care homes; referral of children to available family child care homes; and referral of children to available health and social services. Family child care system shall not mean a placement agency or a child care center.

“Family foster care”, substitute parental care in a family given in a private residence for up to 6 children under 18 years of age on a regular, 24-hour-a-day, residential basis by anyone other than a relative by blood or marriage, but the care may be provided for more than 6 children, provided that such placement is approved by the commissioner of the department of children and families, in order to place siblings in the same residence.



“Group care facility”, a facility which provides care and custody for 1 or more children under 18 years of age, on a regular, 24-hour-a-day, residential basis by anyone other than a relative by blood or marriage, notwithstanding that the care may include educational instruction. Private schools shall be considered group care facilities only if the schools provide special services to children with special needs. Group care facility shall not mean family foster care, a hospital, ward or comprehensive center licensed under section 19 of chapter 19, a hospital, ward or comprehensive center operated by the commonwealth or any subdivision thereof, a hospital, institution for unwed mothers, convalescent or nursing home, rest home, or infirmary licensed under chapter 111, or any facility operated under chapter 123. Group care facility shall not be limited to a facility defined as a group residence under the state building code.

“Large family child care home”, a private residence which, on a regular basis, receives for temporary custody and care during part, or all of the day, children under 7 years of age, or children under 16 years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours children of school age under regulations promulgated by the board, but the number of children under the age of 16 in a large family child care home shall not exceed 10, including participating children living in the residence. A large family child care home shall have at least 1 approved assistant when the total number of children participating in child care exceeds 6. Large family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation.

“Local early education and care council”, a locally directed council approved under guidelines adopted by the board and comprised of local representatives from public and non-public schools, community based providers of early education and care programs and services, families being served locally by the department, and other persons with experience in the care and education of young children or in the administration and support of early education and care programs and services.

“Massachusetts universal pre-kindergarten program”, the program of voluntary, universally accessible early education and care programs and services for preschool-aged children, established in section 13.

“Mixed system”, any person providing early education and care including, but not limited to, public, private, non-profit and for-profit preschools, child care centers, nursery schools, preschools operating within public and private schools, Head Start programs and independent and system affiliated family child care homes.

“Person”, an individual, partnership, corporation, association, organization or trust or any department, agency or institution of the federal government or of the commonwealth or any political subdivision thereof.

“Placement agency”, a department, agency or institution of the commonwealth, or any political subdivision thereof, or any organization incorporated under the laws of the commonwealth, 1 of whose principal purposes is providing custodial care and social services

to children, which receives by agreement with a parent or guardian, by contract with a state agency or as a result of referral by a court of competent jurisdiction, any child under 18 years of age for placement in family foster care or a group care facility, except that for the purposes of adoption placement, a "placement agency" shall be a department, agency or institution of the commonwealth, or any political subdivision thereof, or any organization incorporated under chapter 180, 1 of whose principal purposes is providing custodial care and social services to children, which receives by agreement with a parent or guardian, by contract with a state agency or as a result of referral by a court of competent jurisdiction, any child under the age of 18 years of age for placement in adoption.

"Preschool-aged", a person between the age of 2 years and 9 months and the age the person becomes eligible for kindergarten in the city or town wherein such person resides.

"Public preschool programs", early education and care programs and services provided to preschool-aged children by public school districts organized under chapters 15, 69 and 71.

"Regional child care resource and referral agency", a regionally-based organization which provides a range of services to promote access to high-quality early education and care for families and children.

"School-aged child care program", a program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than 14 years of age, or not more than 16 years of age if the child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays. It shall provide a planned daily program of activities that is attended by children for specifically identified blocks of time during the week, usually over a period of weeks or months. A school-aged child care program shall not include: a program operated by a public school system; a part of a private, organized educational system, unless the services of that system are primarily limited to a school-aged child care program; a Sunday school or classes for religious instruction conducted by a religious organization where the children are cared for during short periods of time while persons responsible for those children are attending religious services; a family child care home, except as provided under large family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

"Services", developmental, preventative, protective, recreational, or rehabilitative services for children including, but not limited to, services to children with special needs, services to assist parents in child nurturing and family living, and information and referral services. These services may be delivered through public or privately funded non-residential programs.

"Temporary shelter facility", a facility which operates to receive children under 18 years of age for temporary shelter during the day or night when those children request shelter,

or when children are placed there by a placement agency, a law enforcement agency or a court with authority to make such placement. Temporary shelter facility shall not mean family foster care or a group care facility, a police station or a town lockup.

**SECTION 23.** Section 2 of said chapter 15D, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words “shall serve as the lead agency for the administration of all public and private early education and care programs and service. The department”.

**SECTION 24.** Said section 2 of said chapter 15D, as so appearing, is hereby further amended by adding the following paragraph:—

The department shall:—

(a) be the lead agency of the commonwealth for administering and providing early education and care programs and services to children;

(b) provide early education and care programs and mental health consultation and other support services for children in the commonwealth through grants, contracting for those programs and services, and providing vouchers to participants, and promote the coordination of all such programs and services;

(c) license or approve child care centers, school-aged child care programs, family child care homes and large family child care homes, family foster care which is not supervised and approved by a placement agency, placement agencies, group care facilities, or temporary shelter facilities;

(d) develop and maintain a current consolidated waiting list for all subsidized early education and care programs, and services in the commonwealth;

(e) establish and develop a schedule for revising: (1) a rate structure for voucher and contracted payments to providers of subsidized early education and care programs and services on behalf of low-income and other at-risk children; and (2) a sliding fee scale for participants in those programs. A public hearing under chapter 30A and the approval of the board shall be required before the establishment or revision of the rate structure and sliding fee scale;

(f) manage and implement the Massachusetts universal pre-kindergarten program, established in section 13, that may be phased in over a period of time as determined by the board, and ensure the universal accessibility to the program by using the sliding fee scale developed for early education and care programs;

(g) after a public hearing, adopt criteria including income eligibility requirements, for determining eligibility for an early education and care program or service, including the universal pre-kindergarten program under this chapter and develop a schedule for revising such criteria. Income eligibility requirements shall include a maximum allowable income for working families;

(h) monitor and evaluate on an ongoing basis all early education and care programs and services, including program outcomes in meeting the developmental and educational needs of all children;



(i) analyze and evaluate all budget requests for early education and care programs and services, including requests from secretaries, departments, agencies, or other offices within the commonwealth and make recommendations to the secretary of education, general court, appropriate secretaries, departments, agencies, or other offices regarding coordination and approval of those budget requests;

(j) lease, purchase, hold and dispose of personal and real property it considers necessary to carry out this chapter;

(k) seek to increase the availability of early education and care programs and services and encourage all providers of those programs and services to work together to create an array of options allowing families to select programs that fit with their schedules;

(l) provide information and referral to persons seeking early education and care programs and services;

(m) work in conjunction with the department of transitional assistance to obtain federal reimbursement under the federal Social Security Act for all participants in publicly-funded early education and care programs and services who are eligible;

(n) promote the development of early education and care services for children by seeking and accepting federal grants as well as assisting other agencies of the commonwealth and local agencies to take full advantage of all federal funds available for those services;

(o) provide technical assistance and consultation to providers and potential providers of early education and care services;

(p) facilitate the development of the early education and care workforce, and, when appropriate, provide for training programs and professional development for persons offering early education and care programs and services;

(q) establish and regularly update: (1) a comprehensive database of early childhood educators and providers, hereinafter referred to as the educator database, for the purpose of enhancing the workforce development system; and (2) a comprehensive database of children both waiting for and receiving early education and care services, in this chapter called the student database, that is compatible with relevant databases at the department of elementary and secondary education and the executive office of health and human services; and

(r) collect and disseminate information to assist parents in nurturing their children's development and education. This information shall be made widely available in written form and accessible through the department's website, in English and other commonly spoken languages in the commonwealth.

(s) plan for and address the unique needs of families with infants and toddlers, including providing parent education, early literacy services and meaningful opportunities for families not enrolled in early education and care to support their children's development.

**SECTION 25.** Section 3 of said chapter 15D, is hereby amended by inserting after the word "care", in line 77, as so appearing, the following words:- programs and.

**SECTION 26.** Said section 3 of said chapter 15D, is hereby further amended by inserting after the word "professionals", in line 80, as so appearing, the following words:-

which accommodates ease of movement of children, by parents, between programs and providers without loss of subsidy funding for the family.

**SECTION 27.** Said section 3 of said chapter 15D, is hereby further amended by inserting after the word “programs”, in line 85, as so appearing, the following words:- and services to children.

**SECTION 28.** Said section 3 of said chapter 15D, is hereby further amended by inserting after the word “care”, in line 93, as so appearing, the following words:- programs and services to children.

**SECTION 29.** Said section 3 of said chapter 15D, is hereby further amended by striking out, in line 102, as so appearing, the word “and”.

**SECTION 30.** Said section 3 of said chapter 15D, is hereby further amended by inserting after the word “exploitation”, in line 104, as so appearing, the following:- ; and

(12) to promote the design and implementation of the Massachusetts universal pre-kindergarten program.

**SECTION 31.** Said section 3 of said chapter 15D, as so appearing, is hereby further amended by inserting after the word “commonwealth”, in lines 109 and 110, the following words:- except for those grant programs for which the department of elementary and secondary education is the state educational agency.

**SECTION 32.** Said section 3 of said chapter 15D, as amended by section 84 of chapter 29 of the acts of 2008, is hereby further amended by striking out subsection (e) and inserting in place thereof the following 3 subsections:-

(e) The board shall determine the need for all early education and care programs and services, the extent and availability of those programs and services and the coordination of those programs and services, and shall make recommendations to the secretary of education, the general court, and appropriate secretaries, agencies, departments, or other offices on need priorities and any changes necessary to improve coordination.

(f) The board, under chapter 30A, shall adopt and, from time to time, may revise rules and regulations that may be necessary to carry out this chapter. These regulations shall include age-appropriate and developmentally appropriate standards for the following developmental stages: infant and toddler; pre-school; early elementary; and older school age children. These standards shall be promulgated in consultation with the advisory council on early education and care. These regulations shall also include requirements for licensure as established in section 8. The board shall submit any rules and regulations, or revisions to them, to the joint committee on education and the house and senate committees on ways and means at least 60 days before adoption, except for emergency regulations which shall be filed with the committees the same day they are filed with the secretary of the commonwealth. The joint committee on education shall review and comment on these rules and regulations during that time period.

(g) The board shall submit an annual report to the secretary of education, the secretary of administration and finance, and the clerks of the house of representatives and senate, who

shall forward the same to the joint committee on education, describing its progress in achieving the goals and implementing the programs authorized in this chapter. The report shall evaluate the progress made toward universal early education and care for preschool-aged children and toward reducing expulsion rates through developmentally appropriate prevention and intervention services. This report shall be submitted not later than February 15 annually.

**SECTION 33.** Said chapter 15D is hereby further amended by inserting after section 3 the following section:-

Section 3A. There shall be a state advisory council on early education and care, the members of which shall represent a reasonable geographic balance and shall reflect the diversity of the commonwealth in race, ethnicity, gender and sexual orientation. Members of the advisory council shall, at minimum, include 1 person from each of the following organizations, or their successor organizations, if applicable: Child Development and Education, Inc., the Massachusetts Head Start Association; the Massachusetts Association for the Education of Young Children; the Massachusetts Association of Early Childhood Teacher Educators; the Massachusetts Association of School Committees; the Massachusetts Association of School Superintendents; the Massachusetts Elementary School Principals Association; the Massachusetts Association of Regional Schools; the Massachusetts Teachers Association; the American Federation of Teachers Massachusetts; the Massachusetts Business Alliance for Education; the Massachusetts Association of Community Partnerships for Children, Inc.; Strategies for Children/Early Education for All; the Child Care Resource and Referral Network; the Massachusetts Association of Day Care Agencies; the Massachusetts Independent Child Care Organization; Associated Early Care and Education; BostNET; the YMCAs of Massachusetts; the United Way of Massachusetts Bay; the Massachusetts After-School Partnership; Parents Alliance for Catholic Education; Together for Kids Coalition; Horizons for Homeless Children; the Massachusetts Chapter of the American Academy of Pediatrics; the Federation of Children With Special Needs; the Bureau of Jewish Education; the Boston Institute for the Development of Infants and Parents; the Massachusetts Early Intervention Consortium; and a family child care provider chosen by the commissioner.

The council shall be further composed of 8 members, 3 of whom shall be appointed by the speaker of the house, 1 of whom shall be appointed by the minority leader of the house of representatives, 3 of whom shall be appointed by the president of the senate, and 1 of whom shall be appointed by the minority leader of the senate. Additional advisory members may also be recommended by the commissioner and appointed by the board. All appointees shall have a special expertise or interest in high quality early childhood education and care and shall represent a mix of representatives of the early childhood community, the civic, labor, and business communities, academics, parents, teachers, social service providers, and health care providers.

Members shall not, by virtue of their membership, be considered state employees under chapter 268A. The members of the council shall serve without compensation but may



be reimbursed, subject to appropriation, for expenses necessarily and reasonably incurred in the performance of their responsibilities. Members shall be appointed for a term of 3 years. No member shall serve for more than 2 consecutive terms. The council shall meet not fewer than 4 times annually.

The commissioner shall consult with the advisory council on the development of the 5-year master plan for early education and care required under section 4, and the adoption of the educationally sound kindergarten readiness assessment instrument required under sections 3 and 13. The advisory council may review and offer comments on any rules or regulations before promulgation by the board, and may, from time to time, make recommendations to the board that it considers appropriate for changes and improvements in early education and care programs and services.

**SECTION 34.** Said chapter 15D is hereby further amended by striking out section 4, as most recently amended by section 86 of chapter 27 of the acts of 2008, and inserting in place thereof the following 2 sections:-

Section 4. The board shall by a  $\frac{2}{3}$  vote of its members submit to the secretary, for the secretary's approval, a recommended candidate to serve as the commissioner of early education and care, in this chapter called the commissioner. The secretary may appoint the recommended candidate as commissioner. If the secretary declines to appoint the candidate, the board shall submit a new candidate for consideration. The secretary may appoint the commissioner only from candidates submitted to the secretary by the board.

The board may in its discretion by majority vote of its members remove the commissioner. The commissioner shall be the secretary to the board and its chief executive officer and shall be the executive and administrative head of the department. The commissioner shall receive a salary to be determined by the board.

The commissioner shall have substantial professional or administrative experience in the fields of early education and care. The commissioner shall devote full-time during business hours to the duties of the office. The commissioner shall be responsible for administering and enforcing the law relative to the department. The commissioner may authorize any officer of the department to exercise in his name any power or to discharge any duty assigned to the commissioner by law, and may at any time revoke that authority.

Subject to the approval of the board of early education and care, the commissioner 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 policies of the department. Such funds shall be received by the state treasurer on behalf of the commonwealth and deposited in a separate account and shall be expended under the direction of the commissioner, with the approval of the board of early education and care. Federal funds paid as reimbursement to the commonwealth shall be deposited into the General Fund.

The commissioner, with the approval of the board, shall establish divisions or other offices considered necessary for the efficient operation of the department. Each division or office shall be under the charge of an associate commissioner who shall be appointed by the

commissioner and who shall be subject to the direction, control and supervision of the commissioner. Each associate commissioner shall be a person of skill and experience in the field of appointment and shall be appointed by and may be removed by the commissioner. Each associate commissioner shall devote full-time during business hours to the duties of the office. Sections 9A, 9B and 9D of chapter 30, and chapter 31 shall not apply to the commissioner, to associate commissioners that he may appoint, or to other such supervisory positions that he may create.

The commissioner shall propose a budget to the board. The budget shall reflect the goals and objectives of the board and the secretary. The board shall review and make recommendations regarding the budget to the secretary. The secretary shall then prepare and submit a budget request on behalf of the department to the house and senate committees on ways and means, the joint committee on education, and to the secretary of administration and finance.

The commissioner may make agreements with other departments and agencies of the commonwealth and may contract with other persons, including, but not limited to, private agencies, to carry out this chapter. The commissioner shall establish standards and procedures governing these agreements and contracts, subject to the approval of the board.

The commissioner shall analyze the present and future goals, needs and requirements of early childhood education and care in the commonwealth and recommend to the board comprehensive means to achieve a well-coordinated system that promotes positive social and emotional development, high educational achievement, and quality care in the commonwealth. Following consultation with the board, the commissioner shall prepare and submit to the secretary, for the secretary's review and approval, a 5-year master plan for achieving such a coordinated system. The master plan along with an annual progress report shall reflect the goals and standards established by the board and the secretary.

The master plan shall include, but not be limited to: enrollment projections; identification of measures for age-appropriate child development and school readiness; expulsion rate projections; utilization of existing facilities; promotion of research; programmatic excellence; recommendations for construction or acquisition of new facilities; program distribution; the addition of new programs; the elimination of existing programs; and the need for program revisions. The commissioner shall receive reports, undertake research, and facilitate coordination among and between all entities delivering programs or services under this chapter. The commissioner shall promote the partnership of providers of early education and care programs and services with elementary and secondary schools, institutions of higher education and business and civic organizations.

The board may delegate its authority, or any portion thereof, to the commissioner whenever, in its judgment, such delegation may be necessary or desirable. The commissioner shall exercise such delegated powers and duties with the full authority of the board.

The commissioner may, subject to appropriation, appoint such other employees as he deems necessary to carry out his duties and responsibilities. The commissioner shall be

provided with adequate offices, and may expend sums for other necessary expenses of the department.

Section 4A. (a) In order to facilitate the licensure process, the commissioner, with the approval of the board, shall establish sub-state regions within which all licensure or approval of child care centers and family child care homes, large family child care homes, and family child care systems, under sections 6 to 10, inclusive, shall be carried out.

(b) The department shall support and work with local early education and care councils in the development of community plans that address how the councils and communities will: (1) build on the local array of services and improve access to services for additional families or increase services for families already receiving services; (2) increase quality; (3) support comprehensive services for children and families; (4) collaborate across agencies; and (5) provide services for hard to reach populations. Local plans shall be reviewed and evaluated using board-approved criteria to assess the quality of collaborative planning, the effectiveness of the plan in addressing community needs and the quality and cost-effectiveness of proposed services.

(c) In order to ensure regional coordination and to maximize local participation in the programs and services of the department, the department shall support and work with regional child care resource and referral agencies in the development of region-wide improvement plans.

(d) The commissioner shall attempt to maximize statewide coordination of services by ensuring that the geographic service areas of the regional child care resource and referral agencies and the local early education and care councils are similar to each other and to the regions created by subsection (a). These regional agencies and local councils shall work together to provide and coordinate a broad range of services to promote access to high-quality early education and care programs to children and families throughout the commonwealth including, but not limited to, acting as local points of access for families seeking information about and financial assistance for early education and care and supporting professional development opportunities for early education and care providers.

**SECTION 35.** Section 5 of said chapter 15D, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 67, the words “and (14) ways to recognize and honor advancements in educational attainment among early education and care professionals.” and inserting in place thereof the following 3 clauses:-

(14) ways to recognize and honor advancement in educational attainment among early educational and care professionals;

(15) professional development opportunities that are provided in languages other than English, and incorporation of these opportunities into any broader, articulated system that is developed; and

(16) alignment of the core competencies, course offerings and other professional development opportunities, where appropriate, with the program quality standards established under section 11.



**SECTION 36.** Said chapter 15D is hereby further amended by adding the following 11 sections:-

Section 6. (a) No person shall operate a school-aged child care program, a child care center, family child care home, large family child care home, placement agency, group care facility, or temporary shelter facility unless that person is licensed by the department. A department, agency or institution of the commonwealth or any political subdivision thereof shall obtain an approval rather than a license in order to operate a child care center, family child care home, placement agency, group care facility, or temporary shelter facility.

(b) No person shall maintain a child in family foster care without placement, supervision and approval by a placement agency unless that person is licensed by the department.

(c) No person shall place or knowingly facilitate the placement of any child in the care or control of any other person not related to that child by blood or marriage, or in the care or control of any organization other than a licensed or approved placement agency, for purposes of adoption in the commonwealth. No person unrelated to a child by blood or marriage, and no organization other than a licensed or approved placement agency, shall receive a child for purposes of adoption, except from a licensed or approved placement agency. Nothing in this section shall prevent the placement of a child who is not a citizen of the United States when a home study of the prospective parent or parents, before the placement of the child, is performed by a licensed placement agency. For the purpose of this section, the spouse of the natural parent of a child shall be considered to be related by marriage to that child.

(d) Notwithstanding any general or special law, rule or regulation to the contrary, no child shall be placed in a foster home before the approval of the home by the department or by any individual or agency licensed by the department under this section, except in an emergency placement in a foster home limited to relatives or long-term friends of the child's family. This approval shall include criminal record information checks on all persons 18 years or older residing at the home. In the event of any emergency placement, a criminal offender record information check shall be completed on all persons 18 years of age or older residing at the home within 10 working days after the placement. If the result of any of these checks shows that any occupant of the home has a criminal record involving violence, abuse, or exploitation against any person, which bears adversely upon the person's ability to assume and carry out the responsibilities of a foster parent or poses a serious threat of harm to a child, the home shall not be approved by the department. No child shall be placed in that home, and any child placed therein as an emergency placement shall be removed immediately.

(e) No person shall cause to be published in a newspaper distributed in the commonwealth or to be broadcast on a radio or television station in the commonwealth an advertisement or notice for the placement or reception of a child under 16 years of age for family foster care, family child care, large family child care, child care center care, school-aged child care program, group residential care, or temporary shelter care or adoption

unless the advertisement is placed by a licensed or approved placement agency, by a licensed family child care home, large family child care home, child care center, school-aged child care program, group care facility or temporary shelter facility, or with the written approval of the department. The advertisement or notice shall include the license or registration number issued to the provider or agency under this section.

Section 7. (a) The department shall issue and may renew a license to any person other than a department, agency or institution of the commonwealth or any political subdivision thereof, who meets applicable standards and requirements to establish and maintain or to assist in the establishment and maintenance of a school-aged child care program, a child care center, family child care home, placement agency or large family child care home, family foster care which is not supervised and approved by a placement agency, group care facility or temporary shelter facility.

(b) The department shall issue approval to a department, agency, or institution of the commonwealth or any political subdivision thereof which it determines meets the applicable standards and requirements to establish and maintain a child care center, family child care home or large family child care home, placement agency, group care facility or temporary shelter facility.

(c) The department may issue a provisional license for or may provisionally approve a school-aged child care program, a child care center, family child care home or large family child care home, family foster care which is not supervised and approved by a placement agency, placement agency, group care facility or temporary shelter facility, which has not previously operated, or is operating, but is temporarily unable to meet applicable standards and requirements. A provisional license or approval shall be issued for a period not to exceed 6 months, and in no case shall a person operate under a provisional license, provisional approval, or renewal thereof for more than 12 consecutive months.

Section 8. (a) The board shall adopt regulations relative to the requirements for licensure and approval of school-aged child care programs, child care centers, family child care homes or large family child care homes and family foster care which is not supervised and approved by a placement agency, placement agencies, group care facilities or temporary shelter facilities. These regulations shall be appropriate for the protection of the health, well-being and development of children and shall include, but need not be limited to, provisions relative to: (1) admission policies and procedures; (2) safe transport of children; (3) physical plant and equipment; (4) the number and qualifications of staff; (5) the nature of programs of care or treatment; (6) behavior management and child guidance policies and procedure; (7) health care and nutrition; (8) rights and responsibilities of parents, children and staff; (9) record keeping and other procedures relevant to evaluation including, but not limited to, reports by placement agencies detailing the number and nature, as defined jointly by the University of Massachusetts center for adoption research and policy in the city of Worcester and the department of children and families, of adoptions processed during each calendar quarter to be filed with the center on or before January 30 annually; (10) organization, financing and administration; and (11) the imposition of civil fines and other

sanctions. The board shall consult with the board of elementary and secondary education and the executive offices of public safety and health and human services before adopting these rules and regulations. The board shall submit any rules and regulations, or revisions to them, to the joint committee on education for review and comment at least 60 days before adoption.

(b) The regulations may establish classifications for licensure or approval that are necessary to achieve the purposes of this section, but the standards and requirements for approval of a child care center, family child care home or large family child care home, placement agency, group care facility, or temporary shelter operated by a department, agency or institution of the commonwealth or any political subdivision thereof shall be the same as or higher than those applicable to the licensure of comparable facilities or services. The regulations shall establish reasonable license fees and appropriate terms for all licenses granted under this section. No license or approval shall be transferable.

(c) The regulations, as they relate to standards and requirements for licensure and approval of large family child care homes, shall include, but not be limited to, appropriate standards for: 1 or more approved assistants as provided in this chapter; additional floor space; staff-to-child ratios for multiple age and size groupings; limitations on the number of infants in care at 1 time; the hours of school-aged care; the number and age of school-aged children cared for; a prerequisite that a provider have at least 3 years of experience in licensed family child care and have completed at least 5 hours of specialized training before licensure as a large family child care provider and at least 10 hours of training each subsequent year. In formulating the regulations pertinent to family child care homes, large family child care homes and family foster care, the department shall give special attention to fire and safety precautions.

(d) The regulations shall provide that each person providing child care or support services with the potential for unsupervised contact with children in any program or facility licensed or funded by the department, as well as any household members or persons regularly on the premises of family child care and large family child care homes, shall be subject to a criminal offender record information check.

(e) Any rule or regulation involving medical treatment shall include appropriate exemptions for children whose parents object to such treatment on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent or child is an adherent or member. The regulations shall require that each child care program licensed or approved by the department shall obtain from a parent or guardian of a child in care under the age of 6 years, but not less than 2 years of age, a statement, signed by a physician or an employee of a health care agency, that the child has been screened for lead poisoning. This statement shall be obtained upon the child's enrollment if the child is 2 years of age or older or at the time the child reaches 2 years of age.

(f) The regulations shall require that any person who operates a school-age child care program, as defined in section 2 of chapter 132B, or a child care center shall comply with the requirements regarding pesticide applications as set forth in sections 6C to 6I, inclusive of said chapter 132B.



(g) Fines authorized by this section shall range from \$50 to \$1,000. In no case shall a fine imposed on a family child care home, large family child care home or child care center exceed a maximum fine of \$250 per violation.

(h) The department shall provide consultation to assist applicants in meeting its requirements for licensure or approval, and in meeting other applicable state and local requirements relative to fire, safety, and zoning codes.

(i) The board shall conduct a comprehensive review of rules and regulations established under this section at least once every 5 years.

Section 9. (a) The department may, at any reasonable time, visit and inspect any facility operated by a person who is subject to licensure or approval under this section in order to determine whether the facility is being operated in compliance with law and with the rules and regulations established by the board.

(b) The department shall make an unannounced monitoring inspection of all large family day care homes within 6 months after the issuance of licenses for those facilities and shall, annually, make at least 1 such unannounced monitoring inspection thereafter.

(c) The department shall promptly investigate and evaluate any notice transmitted to the department by the department of children and families under subsection (l) of section 51B of chapter 119. Such investigation and evaluation shall determine whether the facility being operated by a person subject to licensure or approval under this section is being operated in compliance with this chapter and within the rules and regulations established under this chapter. If, during the course of any such investigation or licensing study conducted by the department, any agent or employee of the department receives or discovers information concerning the occurrence of child abuse or neglect, such agent or that employee shall make a report to the department of children and families under said section 51A of said chapter 119.

Section 10. Subject to the requirements of chapter 30A, the department may suspend, revoke, make probationary, refuse to issue or renew the license of any person, assess a civil fine within the limits prescribed by this section, or impose any other sanctions it considers appropriate, in accordance with rules and regulations promulgated by the board. This action may be taken if the person: fails to comply with applicable rules and regulations, furnishes or makes any misleading or false statements relative to any submission required under the rules and regulations, refuses to submit any reports or make available any records required by the rules and regulations or refuses to admit representatives of the department at any reasonable time for purposes of investigation or inspection. The department may temporarily suspend a license in an emergency situation without a prior hearing. Upon request of an aggrieved party, a hearing shall be held as soon after the license is suspended as is reasonably possible. Any party aggrieved by a final decision of the department in any adjudicatory proceeding under this section may petition for judicial review under section 14 of chapter 30A.

The board shall include in its annual report rules and regulations promulgated by the board relative to the use of civil fines and sanctions, the types of sanctions, and the amount

of those fines.

Section 11. The board, after holding a public hearing, shall adopt, and develop a schedule for revising, program quality standards and requirements that any early education and care program or provider shall meet. The department shall develop separate but related standards for children in the following developmental stages: infant and toddler, pre-school, early elementary and older school-age; and for additional developmental stages that the department may determine relevant based on research and best practices. These standards and requirements shall incorporate essential elements of high-quality early education and care that promote healthy, cognitive, linguistic, social, emotional and physical outcomes, and school readiness based on curriculum frameworks. Standards and requirements shall build upon the licensure regulations promulgated under section 8.

(a) The standards for all developmental stages and any succeeding developmental stages adopted by the department shall be incorporated into a single document and linked by a common philosophy and consistent goals and guiding principles. This document shall also include the policy developed jointly with the department and board of elementary and secondary education required under section 13 to ensure smooth transitions between infant and toddler programs, preschool and kindergarten. The standards shall be regularly updated to reflect applicable research and best practices. The board shall submit standards and requirements, or revisions of them, to the joint committee on education and the house and senate committees on ways and means at least 60 days before adoption. The joint committee on education shall review and comment on the rules and regulations during that time period.

(b) The board shall include, in its adoption and revision of program quality standards, a specific focus on the unique requirements and needs of preschool-aged children including, but not limited to, rigorous guidelines for preschool learning experiences. Every early education and care program or provider shall be required to meet these standards in order to participate in the Massachusetts universal pre-kindergarten program, established in section 13.

(c) The department, with approval of the board, shall develop a consistent set of learning standards for all preschool programs in the commonwealth, to be included in the program quality standards. The standards shall be consistent with the curriculum frameworks developed by the department of elementary and secondary education, shall be research-based and shall be updated regularly to reflect best practices in the field of early education and care. The standards shall guarantee, at a minimum, that every program participating in the Massachusetts universal pre-kindergarten program shall include consultation and intervention services for children at risk for expulsion.

(d) With the approval of the board, the department shall develop and establish a schedule for revising a comprehensive set of developmental benchmarks which may be incorporated into the quality standards, and which may be used by all early education and care programs in measuring children's developmental progress utilizing the healthy, cognitive, linguistic, social, emotional and physical outcomes for developing the quality standards. In developing the benchmarks, the department shall collaborate with pediatricians,

child psychologists, and researchers within the field of child development and developmental psychology, in order to ensure that the document reflects best practices in the field and the most recent evidence provided by science relative to early childhood development.

Section 12. (a) The department shall establish a comprehensive system for measuring the performance and effectiveness of programs providing early education and care and services. This system shall include, but not be limited to, outcomes of the kindergarten readiness assessment system and additional educationally sound, evaluative tools or developmental screenings that are adopted by the department to assess developmental status, age-appropriate progress and school readiness of each child; outcomes of evidence-based intervention and prevention practices to reduce expulsion rates; and evaluations of overall program performance and compliance with applicable laws, standards and requirements. If the department determines that a program has failed to meet performance measures, it may impose sanctions that it considers necessary. These sanctions may include, but need not be limited to, probationary status and termination of funding.

(b) The department, with the approval of the board, shall adopt, and from time to time may revise, the rigorous, developmentally appropriate, and educationally sound kindergarten readiness assessment system required by this chapter, including additional tools that the department considers necessary in order to assess age-appropriate progress and school readiness of preschool-aged children. This system shall recognize the unique challenges of assessing preschool-aged children, and shall utilize tools that are reliable, valid and culturally and linguistically appropriate. The department shall align this assessment with its program quality and learning standards, benchmarks, the department of elementary and secondary education's curriculum guidelines and, where applicable, best practices in the field.

(c) Assessments shall be conducted as much as practicable in the child's natural setting, and the results of the assessment tests developed by the department shall not be used for high stakes decisions, so-called, about a child's progress within the preschool environment nor about the child's transition to kindergarten. Data collected from these assessments shall not be used for the purpose of ranking individual students within a program.

(d) In developing these assessments, the department shall survey all providers in the commonwealth, and as much as practicable, review the major assessment systems in place in other states, in order to determine the most appropriate tools of assessment for the commonwealth. Upon determination by the board that the tools are valid, reliable, and appropriate, the department shall require that every provider in the commonwealth participating in the Massachusetts universal pre-kindergarten program use the assessment tools for the purposes outlined in this chapter. Subject to appropriation, the department shall provide training and professional development to providers to ensure the consistent application of assessment tools.

(e) The comprehensive system for measuring the performance and effectiveness of programs shall be designed to measure the extent to which every preschool-aged child receiving early education and care in the commonwealth through the Massachusetts universal



pre-kindergarten program has a fair and full opportunity to reach such child's full developmental potential and shall maximize every child's capacity and opportunity to enter kindergarten ready to learn. The comprehensive system shall be designed to include, but not be limited to, measuring a program's ability to provide: (1) instructional improvement through the provision of instructionally relevant information which guides instructional decision-making; (2) alignment of the preschool's curriculum with the state learning and program standards promulgated under this chapter; (3) the identification of children in need of additional educational, medical, and human services; (4) communication with parents; (5) preparation of an appropriate kindergarten transition plan for each student under this chapter; (6) program evaluation under this chapter; and (7) the gathering of data for the longitudinal study required by this chapter.

(f) Pursuant to section 11, the department shall establish a comprehensive system for measuring the performance and effectiveness of preschool programs providing early education and care. This system shall include, but not be limited to, outcomes of the kindergarten readiness assessment system required by this section and other educationally sound, evaluative tools that are adopted by the department to assess age-appropriate progress and school readiness of each preschool-aged child and evaluations of overall provider performance and compliance with applicable laws, standards and requirements. The department shall conduct a formal evaluation of all early education and care programs and providers participating in the Massachusetts universal pre-kindergarten program at least once every 2 years. If the department determines that a provider has failed to meet performance measures, or to comply with applicable laws, standards and requirements, it may impose sanctions that it considers necessary. These sanctions may include, but need not be limited to, a probationary period or termination of funding.

Section 13. (a) The board shall, subject to appropriation, establish the Massachusetts universal pre-kindergarten program to assist in providing voluntary, universally accessible, high-quality early education and care programs and services for preschool-aged children in the commonwealth. The program shall be designed to meet and enhance the preschool-aged child's ability to make age appropriate progress in the development of cognitive, linguistic, social, emotional and physical capacities and school readiness based on curriculum frameworks.

(b) The Massachusetts universal pre-kindergarten program shall be delivered through a mixed system of providers and programs. Programs shall be sufficiently flexible to serve families with various work schedules. The department shall develop a method for funding the program, which may provide grants, or enter into contracts with any provider of early education and care, or entities coordinating or administering plans to provide high-quality, comprehensive services to children and their families within the local community. These providers may include, but are not limited to: public; private; non-profit and for-profit preschools; child care centers; nursery schools; preschools operating within public and private schools; Head Start programs; independent and system-affiliated family child care homes; and local early education and care councils. The department may provide vouchers

to eligible households for the purpose of implementing the early education and care program. All providers shall demonstrate that they are willing and able to serve and integrate children of diverse abilities and special needs, diverse cultural and linguistic backgrounds and diverse economic circumstances.

(c) The department and board shall, in consultation with the department and board of elementary and secondary education, develop a joint policy on kindergarten transitions, which shall ensure smooth transitions between home, family day care, center-based preschool, and public pre-school. The policy shall be research-based, and aligned with best practices. The policy shall recognize the sensitive nature of the process for children and families, shall be designed to ensure the ongoing participation of parents and family in the process, and shall maximize all opportunities to ensure smooth transitions during the year before entering kindergarten. The process shall include, as much as is practicable, the exposure of both children and families to the kindergarten environment early and regularly in the transition process. The department shall require every preschool program receiving funding from the commonwealth to develop a local transition plan consistent with the statewide policy plan.

(d) The department, in cooperation with the executive office of health and human services, shall, to the extent practicable, assure that the programs and services provided through the Massachusetts universal pre-kindergarten program are no less available in the aggregate to the children of disabled parents than to the children of non-disabled parents. The department of early education and care, with the approval of the board and in consultation with the state advisory committee on early education and care established in section 3A, shall study and present any additional recommendations on the programmatic, financing, and phase-in options for the development and universal implementation of the Massachusetts universal pre-kindergarten program. This study shall include an estimate of the need for full-day, full-year care that meets the needs of parents who work full-time and shall include the number of pre-school aged children in the commonwealth who may be at risk due to family poverty, TAFDC status, special needs, or other risk factors.

The department shall include its findings and recommendations, and any updates of its findings, in the annual report required under section 3.

Section 14. (a) A person whose consent is required by section 2 of chapter 210 may, before surrender, request from a placement agency background information pertaining to the prospective adoptive family in which the placement agency expects to place the child if surrendered. The board shall adopt rules and regulations regarding the nature of the background information. No agency shall be required to reveal the identity or geographical location of the prospective adoptive family to such person. The placement agency shall provide the background information in writing unless the person whose consent is required signs a written waiver of the request.

(b) Each placement agency shall register with an adoption resource exchange in the commonwealth whose goal is adoption of a child, whether the child is free for adoption or at legal risk, for whom the placement agency has been unable to identify a specific adoptive

family or initiate the adoption process with a prospective adoptive family within 60 days of the determination of the goal of adoption. For the purposes of this section, an “adoption resource exchange” shall mean a nonprofit agency, the primary purpose of which is to link children awaiting placement with permanent families by providing information and referral services and by the recruitment of potential adoptive families.

**Section 15.** (a) Any person who violates section 6 shall be punished for each violation by a fine of up to \$5,000 or by imprisonment in the house of correction for not more than 2½ years, or by both.

(b) Upon petition of the department, the superior court shall have jurisdiction to enjoin any violation of said section 6 or to take other action that equity and justice may require.

**Section 16.** Upon petition of the department, the superior court shall have jurisdiction to enter an order permitting the department to enter and inspect, under conditions that the court considers appropriate, a facility operated by a person whom the department has reasonable cause to believe is subject to licensure or approval under this chapter.

**SECTION 37.** Section 28 of chapter 18 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 19, the words “office for children or his designee” and inserting in place thereof the following words:- department of early education and care or his designee.

**SECTION 38.** Section 9 of chapter 18A of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “the office for children” and inserting in place thereof the following words:- the department of early education and care.

**SECTION 39.** The fourth sentence of the fourth paragraph of section 13 of said chapter 18B, as amended by section 37 of chapter 176 of the acts of 2008, is hereby further amended by striking out the words “, 2 members at the time of their appointment shall be members of the local councils for children established under section 7 of chapter 28A”.

**SECTION 40.** Section 19 of chapter 19 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 64 to 66, inclusive, the words “day care center, family day care home, family day care system, family foster care, or group care facility as defined in section nine of chapter twenty-eight A” and inserting in place thereof the following words:- child care center, family child care home, family child care system, family foster care or group care facility as defined in section 1A of chapter 15D.

**SECTION 41.** Section 15 of chapter 19B of the General Laws, as so appearing, is hereby amended by striking out, in lines 56 to 58, inclusive, the words “day care center, family day care home, family day care system, family foster care, or group care facility as defined in section nine of chapter twenty-eight A” and inserting in place thereof the following words:- child care center, family child care home, family child care system, family foster care or group care facility as defined in section 1A of chapter 15D.

**SECTION 42.** Section 1 of chapter 23G of the General Laws, as so appearing, is hereby amended by striking out, in lines 99 and 100, the words “day care center or a school



age child care program, as those terms are defined in section 9 of chapter 28A” and inserting in place thereof the following words:- child care center or school age child care program, as those terms are defined in section 1A of chapter 15D.

**SECTION 43.** Chapter 28A of the General Laws is hereby repealed.

**SECTION 44.** Section 2JJ of chapter 29 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 6 to 7, the words “the office for children” and inserting in place thereof the following words:- early education and care.

**SECTION 45.** Section 3 of chapter 38 of the General Laws, as so appearing, is hereby amended by striking out, in line 38, the word “day” and inserting in place thereof the following word:- child.

**SECTION 46.** Section 3 of chapter 40A of the General Laws, as so appearing, is hereby amended by striking out, in lines 68 to 70, inclusive, the words “day care center or a school-aged child care program, as those terms are defined in section nine of chapter twenty-eight A” and inserting in place thereof the following words:- child care center or a school-aged child care program, as defined in section 1A of chapter 15D.

**SECTION 47.** Said section 3 of said chapter 40A, as so appearing, is hereby further amended by striking out, in lines 80 and 81, the words “day care home and large family day care home, as those terms are defined in section nine of chapter twenty-eight A” and inserting in place thereof the following words:- child care home and large family child care home, as defined in section 1A of chapter 15D.

**SECTION 48.** Section 9C of said chapter 40A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “day care center or a school age child care program, as those terms are defined in section nine of chapter twenty-eight A” and inserting in place thereof the following words:- child care center or a school-aged child care program, as defined in section 1A of chapter 15D.

**SECTION 49.** Section 1 of chapter 40D of the General Laws, as so appearing, is hereby amended by striking out, in lines 67 to 69, inclusive, the words “day care center or a school age child care program, as those terms are defined in section nine of chapter twenty-eight A” and inserting in place thereof the following words:- child care center or a school-aged child care program, as defined in section 1A of chapter 15D.

**SECTION 50.** Section 1A of chapter 69 of the General Laws is hereby amended by striking out, in lines 24, 29 and in lines 72 and 73, as so appearing, the words “early childhood.”

**SECTION 51.** Section 1B of said chapter 69, as so appearing, is hereby amended by striking out, in lines 53, 57 and 67, as so appearing, the words “early childhood.”

**SECTION 52.** Section 1C of said chapter 69, as so appearing, is hereby amended by striking out, in line 2, the words “early childhood.”

**SECTION 53.** Section 1E of said chapter 69, as so appearing, is hereby amended by striking out, in line 25, the words “early childhood programs and”.

**SECTION 54.** Section 7A of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, and, in lines 15 and 16, the words “day care facility licensed or registered by the office for children, or a day” and inserting in place thereof, in each instance, the following words:- child care center licensed or approved by the department of early education and care, or a child.

**SECTION 55.** Section 16C of said chapter 71, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words “day care facility licensed or registered by the office for children or a day” and inserting in place thereof the following words:- child care center licensed or approved by the department of early education and care or a child.

**SECTION 56.** Said section 15A of said chapter 75, as so appearing, is hereby further amended by striking out, in lines 17 and 18, the words “section 10 of chapter 28A” and inserting in place thereof the following words:- section 7 of chapter 15D.

**SECTION 57.** Section 1 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 252, the word “day” and inserting in place thereof the following word:- child.

**SECTION 58.** Section 7D of said chapter 90, as so appearing, is hereby amended by striking out, in line 29, the word “day” and inserting in place thereof the following word:- child.

**SECTION 59.** Section 4J of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the words “office for children” and inserting in place thereof the following words:- department of early education and care.

**SECTION 60.** Section 192B of said chapter 111, as so appearing, is hereby amended by striking out, in line 20, the word “day” and inserting in place thereof the following word:- child.

**SECTION 61.** Section 219 of said chapter 111, as so appearing, is hereby amended by striking out, in line 2, the word “day” and inserting in place thereof the following word:- child.

**SECTION 62.** Section 4 of chapter 111I of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words “office for children” and inserting in place thereof the following words:- department of early education and care.

**SECTION 63.** The definition of “Child in need of services” in section 21 of chapter 119, as amended by section 83 of chapter 176 of the acts of 2008, is hereby further amended by striking out the figure “16” and inserting in place thereof the following figure:- 17.

**SECTION 64.** The definition of “Mandated reporter” in said section 21 of said chapter 119, as amended by section 83 of chapter 176 of the acts of 2008, is hereby further amended by striking out the words “family day care systems” and inserting in place thereof the following words:- family child care systems.

**SECTION 64½.** The first sentence of said section 21 of said chapter 119, as amended by said section 83 of said chapter 176, is hereby further amended by striking out the figure “55H” and inserting in place thereof the following figure:- 51H.

**SECTION 64A.** Section 21 of said chapter 119, as amended by said section 83 of said chapter 176, is hereby further amended by striking out the definition of “Qualified expert”.

**SECTION 64B.** Said chapter 119 is hereby further amended by striking out section 21A, as appearing in said section 83 of said chapter 176, and inserting in place thereof the following section:-

Section 21A. Evidence in proceedings under sections 21 to 51H, inclusive, shall be admissible according to the rules of the common law and the General Laws and may include reports to the court by any person who has made an investigation of the facts relating to the welfare of the child and is qualified as an expert according to the rules of the common law or by statute or is an agent of the department or of an approved charitable corporation or agency substantially engaged in the foster care or protection of children. Such person may file with the court in a proceeding under said sections 21 to 51H, inclusive, a full report of all facts obtained as a result of such investigation. The person reporting may be called as a witness by any party for examination as to the statements made in the report. Such examination shall be conducted as though it were on cross-examination. Evidence may include testimony of foster parents or pre-adoptive parents concerning the welfare of a child if such child has been in the care of the foster or pre-adoptive parents for 6 months or more, and may include the testimony of the child if the court determines that the child is competent and willing, after consultation with counsel, if any, to testify.

**SECTION 64C.** The fifth paragraph of section 24 of said chapter 119, as appearing in section 84 of said chapter 176, is hereby further amended by striking out the words “qualified expert” and inserting in place thereof the following words:- person qualified under section 21A.

**SECTION 64D.** Subsection (a) of section 26 of said chapter 119, as appearing in said section 84 of said chapter 176, is hereby further amended by striking out the words “qualified expert” and inserting in place thereof the following words:- person qualified under section 21A.

**SECTION 65.** Section 39H of said chapter 119, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 24 and 25, line 26 and in lines 27 and 28, the words “office for children” and inserting in place thereof in each instance the following words:- department of early education and care.

**SECTION 66.** Section 2 of chapter 132B of the General Laws, as so appearing, is hereby amended by striking out, in lines 61, 68 and 75, the word “day” and inserting in place thereof, in each instance, the following word:- child.

**SECTION 67.** Section 6C of said chapter 132B, as so appearing, is hereby amended by striking out, in lines 2, 6, 10, 11, 22 and 26, the word “day” and inserting in place thereof, in each instance, the following word:- child.

**SECTION 68.** Section 6D of said chapter 132B, as so appearing, is hereby amended



by striking out, in lines 1 and 9, the word “day” and inserting in place thereof, in each instance, the following word:- child.

**SECTION 69.** Section 6E of said chapter 132B, as so appearing, is hereby amended by striking out, in lines 1, 7, 8 and 17, the word “day” and inserting in place thereof, in each instance, the following word:- child.

**SECTION 70.** Section 6F of said chapter 132B, as so appearing, is hereby amended by striking out, in line 2, the word “day” and inserting in place thereof the following word:- child.

**SECTION 71.** Section 6G of said chapter 132B, as so appearing, is hereby amended by striking out, in lines 2 and 16, the word “day” and inserting in place thereof in each instance the following word:- child.

**SECTION 72.** Section 6H of said chapter 132B, as so appearing, is hereby amended by striking out, in lines 1, 17, 22 and 30, the word “day” and inserting in place thereof, in each instance, the following word:- child.

**SECTION 73.** Section 6I of said chapter 132B, as so appearing, is hereby amended by striking out, in line 2, the word “day” and inserting in place thereof the following word:- child.

**SECTION 74.** Section 52D of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the word “day” and inserting in place thereof the following word:- child.

**SECTION 75.** Said section 52D of said chapter 149, as so appearing, is hereby further amended by striking out, in line 13, the figure “28A” and inserting in place thereof the following figure:- 15D.

**SECTION 76.** Section 1 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 28, the word “day” and inserting in place thereof the following word:- child.

**SECTION 77.** Section 17K of chapter 180 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 10, the word “day” and inserting in place thereof, in each instance, the following word:- child.

**SECTION 78.** Section 5 of chapter 209C of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words “twenty-eight A” and inserting in place thereof the following figure:- 15D.

**SECTION 79.** Section 5D of chapter 210 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “section nine of chapter twenty-eight A” and inserting in place thereof the following words:- section 1A of chapter 15D.

**SECTION 80.** Section 11A of said chapter 210, as so appearing, is hereby amended by striking out, in line 3, the word “twenty-eight A” and inserting in place thereof the following figure:- 15D.

**SECTION 81.** Section 85Y of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 to 13, inclusive, the words “day care center or a school age child care program, as those terms are defined in section nine of chapter twenty-eight A” and inserting in place thereof the following words:- child care center or a school-aged child care program, as defined in section 1A of chapter 15D.

**SECTION 82.** Section 22 of chapter 270 of the General Laws, as so appearing, is hereby amended by striking out, in line 144, the word “day” and inserting in place thereof the following word:- child.

**SECTION 83.** Said section 22 of said chapter 270, as so appearing, is hereby further amended by striking out, in line 146, the words “office of child care services” and inserting in place thereof the following words:- department of early education and care.

**SECTION 84.** Section 22 of chapter 45 of the acts of 2005 is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(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 state agencies of state government from the transferor agency to the transferee agency, as follows:

(1) the early education and care functions of the department of elementary and secondary education, except for those grant programs for which the department of elementary and secondary education is the state educational agency and the extended school services program established by sections 26A and 26B of chapter 71 of the General Laws, as the transferor agency, to the department of early education and care, as the transferee;

(2) the functions of the office of child care services, as described in chapter 28A of the General Laws, prior to the effective date of this act as the transferor agency, to the department of early education and care, as the transferee agency.

**SECTION 85.** The board of early education and care, established in section 3 of chapter 15D of the General Laws, shall, in consultation with the advisory council established under section 3A of said chapter 15D, assess and report on the current and potential capacity of the existing early education and care system to: enhance the quality of early education and care programs; provide multiple points of entry and outreach for families including those in hard to reach populations; deliver comprehensive services including mental health consultation and intervention services to decrease expulsion rates; foster collaboration and coordinate resources among providers of early education programs and linkages with human services agencies, the department of elementary and secondary education and local school districts; undertake school readiness assessments and program evaluations; maximize resources for workforce and professional development for early education and care professionals; and reestablish trial court child care programs.

The board shall include in its report a review of the local and regional organizational structures required by section 4 of chapter 15D of the General Laws, along with recommendations for how to achieve the most effective regional and local coordination to enhance the quality of services delivered through the early education and care system. The

report shall also include recommendations relative to any legislation necessary to support or authorize such plans. The board shall submit its report not later than December 15, 2008, to the clerks of the house of representatives and the senate who will forward the same to the joint committee on education.

**SECTION 86.** The department of early education and care, with the approval of the board of early education and care, may make agreements with the department of elementary and secondary education, or any departments or agencies within the executive office of health and human services to carry out any of the provisions included in chapter 15D of the General Laws, as amended by this act. Said department of elementary and secondary education or any department or agency within said executive office of health and human services may make and carry out any such agreements with the commissioner of early education and care.

**SECTION 87.** Any agreement under which the office of child care services had delegated its licensing functions to a city or town under chapter 28A of the General Laws shall expire 6 months after the effective date of this act.

**SECTION 88.** Notwithstanding any general or special law to the contrary, in developing the program standards required by sections 11 and 13 of chapter 15D of the General Laws, the board of early education and care shall adopt the standards and requirements entitled Early Childhood Program Standards For Three and Four Year Olds and those entitled Guidelines For Preschool Learning Experiences approved by the board of education in April of 2003, until any superseding standards and requirements are adopted by the board. The department shall base any superseding standards on the Early Childhood Program Standards promulgated by the department of education, the Head Start Standards, and such other program quality standards as the department considers relevant and applicable.

Notwithstanding any general or special law to the contrary, the board of early education and care shall use the accreditation procedures of the National Association for the Education of Young Children or the New England Association of Schools and Colleges, which shall include supplemental requirements to be developed by the board, or other accreditation procedures that it considers appropriate until such time as any superseding program standards, learning standards or accreditation procedures are approved by the board. In developing any new accreditation procedures, the department shall strive to ensure the high-quality of all early education and care programs and services in the commonwealth but shall endeavor to develop a more cost-effective accreditation option than currently provided by national accreditation agencies.

**SECTION 89.** Section 20 shall take effect as of August 15, 2008.

**SECTION 90.** Sections 63, 64A, 64B, 64C and 64D shall take effect July 8, 2008.

Approved July 31, 2008.



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## **Chapter 216. AN ACT RELATIVE TO CERTAIN MARRIAGE LAWS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to repeal certain laws prohibiting certain non-residents from marrying in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Sections 11, 12 and 13 of chapter 207 of the General Laws are hereby repealed.

**SECTION 2.** Section 50 of said chapter 207 is hereby repealed.

Approved July 31, 2008.

## **Chapter 217. AN ACT RELATIVE TO EQUALITY IN THE MASSHEALTH PROGRAM.**

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

Chapter 118E of the General Laws is hereby amended by adding the following section:—

Section 61. Notwithstanding the unavailability of federal financial participation, no person who is recognized as a spouse under the laws of the commonwealth shall be denied benefits that are otherwise available under this chapter due to the provisions of 1 U.S.C. § 7 or any other federal non-recognition of spouses of the same sex.

Approved July 31, 2008.

## **Chapter 218. AN ACT AUTHORIZING THE CITY OF QUINCY TO CONVEY CERTAIN LAND.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the city of Quincy, acting by or through its city council, may sell or transfer a parcel of land, located on Columbia street containing approximately 26,031 ± square feet, consisting of Assessor Map 3089, Plot 10, currently used by the city for park and recreation purposes, to Brewster Family Land Trust, LLC, as trustee of 103-127 Penn Street Realty Trust, grantee, pursuant to the terms and conditions of a certain vote of the city council of the city of Quincy on May 5, 2008. The parcel is shown as Parkland Parcel 1, city of Quincy Playground on a plan

entitled “Legislative Plan Showing Parkland to be Conveyed From the City of Quincy to Brewster Family Trust, LLC, as Trustee of 103-127 Penn Street Realty Trust” prepared by Coler & Colantonio, Inc., dated May 2, 2008.

**SECTION 2.** In consideration of the conveyance described in section 1, the city shall receive from George Brewster, individually, Brewster Family Land Trust, LLC, as trustee of 62 Columbia Realty Trust, Brewster Family Land Trust, LLC, as trustee of 68-70 Columbia Realty Trust, Brewster Family Land Trust, LLC, as trustee of 84 Columbia Street Realty Trust and Brewster Family Land Trust, LLC, as trustee of 0 Plain and Mitchell Streets Realty Trust 7 parcels of land, together containing approximately 46,072 ± square feet, consisting of portions of Assessor Map 3089, Plot 9, Lot 75, Assessor Map 3089, Plot 3, Lot 147, Assessor Map 3089, Plot 4, Lot 146, Map 3089, Plot 5, Lot 145, Map 3089, Plot 6, Lot 144, Map 3089, Plot 7, Assessor Map 3089, Plot 10 and Assessor Map 3091-B, Plot 3, Lot B2. The parcels are shown on a plan entitled “Approval Not Required Plan of Land, Penn Street, Quincy, MA (Norfolk County)” prepared by Coler & Colantonio, Inc., dated May 2, 2008, as 7 parcels of land identified as Parcels P-1 through P-7. Parcels P-1 through P-7 shall be transferred to the city for park and recreation purposes. The city council shall determine whether these parcels are collectively equal to or greater than the full and fair market value of the property described in section 1, or its value in use as proposed, whichever is greater, as determined by independent appraisal. If there is a disparity in these values in favor of the grantee, the grantee shall pay a sum equal to the difference to the city of Quincy.

**SECTION 3.** The grantee of Parkland Parcel 1, city of Quincy playground described in section 1 shall pay for all costs of any appraisals, surveys and other expenses for the conveyances authorized by this act as may be considered necessary by the city council.

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

Approved July 31, 2008.

## **Chapter 219. AN ACT AUTHORIZING A CHANGE OF USE OF CERTAIN LAND IN THE TOWN OF LEICESTER.**

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

**SECTION 1.** The town of Leicester may change the use of a portion of the town-owned property known as Burncoat Park located off Town Beach road, in the town of Leicester from passive recreational use to active recreational use.

**SECTION 2.** The portion of the property affected by the change in use is identified as a 20 acre more or less parcel of land located west of the existing paved access road known as Town Beach road and north of Burncoat Pond in the town of Leicester. All other contiguous land not identified in this act shall remain dedicated to passive recreational use.

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

Approved July 31, 2008.

**Chapter 220. AN ACT AUTHORIZING THE TOWN OF PROVINCETOWN TO GRANT A CERTAIN EASEMENT.**

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

**SECTION 1.** The town of Provincetown, acting by and through its board of selectmen, may grant to the owners of the property known as 320 Rear Bradford street in the town and shown as "Parcel 1 Area = 1.34 ± Acres" on a plan of land entitled "Plan of Land in Provincetown as Surveyed for Philip C. Malicoat et ux" dated November 1972 prepared by W.G. Slade Surveyor and recorded with the Barnstable county registry of deeds in book 263, page 58 a permanent easement for the purposes of access to the property.

The easement is described as follows:

An easement, sixteen feet in width, bounded and described as follows:

Northerly by land of the grantor, a distance of one thousand eight hundred twenty-two and 08/100 (1,822.08) feet;

Easterly by Snail Road, a distance of sixteen and no/100 (16.00) feet;

Southerly by other land of the grantor, a distance of one thousand eight hundred seventeen and 75/100 (1,817.75) feet; and

Westerly by other land of the grantor, a distance of sixteen and no/100 (16.00) feet.

The easement is shown on a plan entitled "Plan of Land in Provincetown Showing a Proposed Easement Made for Conrad Malicoat" dated July 11, 2007 by Slade Associates, Inc. The plan shall be recorded at the Barnstable county registry of deeds.

This easement shall provide access only to the existing residence at 320 Rear Bradford street and shall not provide access to any other parcel or be employed for any other use.

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

Approved July 31, 2008.

**Chapter 221. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS OF THE CITY OF REVERE TO BE ISSUED TO FINANCE THE CONSTRUCTION OF THE CITY OF REVERE NEW POLICE HEADQUARTERS AND EAST FIRE STATION.**

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



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## Chap. 221

**SECTION 1.** Notwithstanding any general or special law to the contrary, the city of Revere may issue bonds, up to but not to exceed the sum of \$20,200,000, for the purpose of designing, constructing, originally equipping and furnishing its new police headquarters and east fire station on Revere Beach parkway in the city of Revere for a term not to exceed 30 years and without regard to the term of any temporary loan issued in anticipation of such bonds.

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

Approved July 31, 2008.

## Chapter 222. AN ACT AUTHORIZING THE TOWN OF SUDBURY TO USE CERTAIN INSURANCE OR RECOVERY PROCEEDS.

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, funds received by the town of Sudbury for injury to a police officer or firefighter as insurance proceeds from town insurance policies or as funds received based upon liability by a third party where the police officer or firefighter is entitled to compensation under section 111F of chapter 41 of the General Laws, shall be deposited in the salary and overtime accounts of the respective departments without deposit into the General Fund, and shall not require further appropriation by the town.

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

Approved July 31, 2008.

## Chapter 223. AN ACT ESTABLISHING A STATE 911 DEPARTMENT, SINGLE 911 SURCHARGE AND AN ENHANCED 911 FUND.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for enhanced 911 service for the citizens of the commonwealth , therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 18 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 5, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

**SECTION 2.** Said chapter 6A is hereby further amended by striking out sections 18A and 18B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 18A. In this section, and in sections 18B to 18J, inclusive, of this chapter, and in section 14A of chapter 166, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Automatic location identification”, an enhanced 911 service capability that allows for the automatic display of information relating to the geographical location of the communication device used to place a 911 call.

“Automatic number identification”, an enhanced 911 service capability that allows for the automatic display of a telephone number used to place or route a 911 call.

“Commission”, the state 911 commission.

“Communication services”, includes any of the following: (a) the transmission, conveyance or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless or other medium or method, regardless of the protocol used; (b) the ability to provide two-way voice communication on the public switched network; (c) wireless enhanced 911 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service as defined by the regulations of the FCC regulations; (f) IP -enabled service; or (g) prepaid wireless service.

“Communication service provider”, an entity that provides communication services to a subscriber or end user.

“Department”, the state 911 department.

“Director”, the executive director of the state 911 department.

“Emergency medical dispatch”, the management of requests for emergency medical assistance by utilizing a system of: (a) tiered response or priority dispatching of emergency medical resources based on the level of medical assistance needed by the victim; and (b) pre-arrival first aid or other medical instructions given by trained personnel responsible for receiving 911 calls and directly dispatching emergency response services.

“End user”, a person who uses communication services.

“Enhanced 911 Fund”, the fund established under section 35JJ of chapter 10.

“Enhanced 911 service provider”, any entity that provides 1 or more of the following 911 elements: network, database or PSAP customer premises equipment.

“Enhanced 911 service”, a service consisting of communication network, database and equipment features provided for subscribers or end users of communication services enabling such subscribers or end users to reach a PSAP by dialing the digits 911, or by other means approved by the department, that directs calls to appropriate PSAPs based on selective routing and provides the capability for automatic number identification and automatic location identification.

“Enhanced 911 network features”, the components of enhanced 911 service that provide selective routing, automatic number identification and automatic location identification.

“Enhanced 911 systems”, a distinct entity or geographical segment in which enhanced 911 service is provided, consisting of network routing elements serving as a control office and trunking connecting all central offices within a geographical segment, and including PSAPs and network used to deliver location data to PSAPs from a data base.

“FCC”, the Federal Communications Commission.

“FCC order”, all orders issued by the FCC under the proceeding entitled “Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems” (CC Docket No. 94-102; RM 8143), or any successor proceeding, including all other criteria established therein, regarding the delivery of wireless enhanced 911 service by a wireless carrier, and all orders issued by the FCC under the proceeding entitled “In the Matter of IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers”(WC Docket No 05-196), or any successor proceeding, including all other criteria established therein, regarding the delivery of enhanced 911 service by an IP-enabled service provider.

“Governmental body” shall include any governmental body as defined in section 11A of chapter 30A or section 23A of chapter 39 .

“Interconnected VoIP service”, voice over the internet protocol services as defined by the FCC in 47 CFR 9.3.

“IP-enabled service”, a service, device or application which makes use of Internet Protocol, or IP, and capable of entering the digits 911, or by other means as approved by the department, for the purposes of interconnecting users to the enhanced 911 system including, but not limited to, voice over IP and other services, devices, or applications provided through or using wireline, cable, wireless, or satellite facilities or any other facility that may be provided in the future.

“Limited secondary PSAP”, a PSAP equipped, at a minimum, with automatic number identification and automatic location identification display or printout capability. It receives 911 calls only if transferred from the primary PSAP. Data sent to a limited secondary PSAP cannot be re-routed to another location and may not necessarily be transmitted simultaneously with the voice call.

“Local exchange service”, telephone exchange lines or channels that provide local access from the premises of a subscriber in the commonwealth to the local telecommunications network to effect the transfer of information.

“Network components”, any software or hardware for a control switch, other switch modification, trunking or any components of a computer storage system or database used for selective routing of 911 calls, automatic number identification and automatic location identification, including a PSAP.

“Next generation 911”, an enhanced 911 system that incorporates the handling of all 911 calls and messages, including those using IP-enabled services or other advanced communications technologies in the infrastructure of the 911 system itself.

“Prepaid wireless telephone service”, wireless service that is activated in advance by payment for a finite dollar amount of service or minutes that terminates either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service or minutes, unless the customer makes additional payments.



“Prepaid wireless telephone service provider”, an entity providing prepaid wireless telephone service at retail or wholesale.

“PSAP customer premises equipment”, enhanced 911 call processing equipment located at a PSAP.

“Primary PSAP”, a PSAP equipped with automatic number identification and automatic location identification displays, and is the first point of reception of a 911 call. It serves the municipality in which it is located.

“Private safety department”, an entity, except for a municipality or a public safety department, that provides emergency police, fire, ambulance or medical services.

“Public safety answering point” or “PSAP”, a facility assigned the responsibility of receiving 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety agencies or other PSAPs.

“Public safety department”, a functional division of a municipality or a state that provides fire fighting, law enforcement, ambulance, medical or other emergency services.

“Regional emergency communication center”, a facility operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, as approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of emergency services for all such municipalities or governmental bodies including, but not limited to, a regional PSAP that provides enhanced 911 service and police, fire protection, and emergency medical services dispatch, including services provided by a private safety department. The regional PSAP portion of the center shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“Regional PSAP”, a PSAP operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, approved by the department, for the operation of enhanced 911 call taking and call transfer activities. A regional PSAP may also be engaged in, by agreement, the dispatching or control of public safety resources serving some or all of the municipalities or governmental bodies that comprise the regional PSAP, including where services are provided by a private safety department. If the regional PSAP serves all such municipalities or governmental bodies for the operation of enhanced 911 call taking and call transfer activities and dispatch services including where dispatch services are provided by a private safety department, it shall be considered a regional emergency communication center for the purposes of section 18B. The regional PSAP shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“Regional secondary PSAP”, a facility operated by or on behalf of 3 or more municipalities or governmental bodies, or a combination thereof, approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of either police, fire protection or emergency medical services, or any combination thereof. A regional secondary PSAP is equipped with automatic number

identification and automatic location identification displays. It receives 911 calls only when transferred from a primary or regional PSAP or on an alternative routing basis when calls cannot be completed to the primary or regional PSAP.

“Retail”, sales by a prepaid wireless telephone service provider directly to the end user or to a non-prepaid wireless telephone service provider through a voluntary contractual relationship in which the service is sold directly to the end user on behalf of the prepaid wireless telephone service provider.

“Ringing PSAP”, a PSAP equipped for receipt of voice communications only, and may not operate 24 hours each day. It receives 911 calls that are transferred from the primary PSAP.

“Secondary PSAP”, a PSAP equipped with automatic number identification and automatic location identification displays. It receives 911 calls only when they are transferred from the primary PSAP or on an alternative routing basis when calls cannot be completed to the primary PSAP.

“Selective routing”, the method to direct 911 calls to the appropriate PSAP using a call routing database derived from the geographical location from which the call originated.

“Subscriber”, a person who uses communication services.

“Telephone company”, a person, firm, corporation, association or joint stock association or company, as defined in chapter 159, furnishing or rendering local telephone exchange service.

“VoIP or voice over internet protocol”, a type of IP-enabled service that allows for the two-way real time transmission of voice communications and has access to the public switched network.

“Wholesale”, sales by the prepaid wireless telephone service provider to a non-prepaid wireless telephone service provider that sells service on behalf of the prepaid wireless telephone service provider.

“Wireless carrier”, a commercial mobile radio service, as defined in 47 U.S.C. 332(d), including resellers and prepaid providers of wireless services.

“Wireless enhanced 911 service”, the service required to be provided by wireless carriers under, and governed by, FCC order.

“Wireless state police PSAP”, a state police facility assigned the responsibility of primarily or entirely receiving wireless 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety departments or other PSAPs.

“Wireline carrier”, an incumbent local exchange carrier or local exchange carrier operating in the commonwealth, or a telephone company, or any other person, corporation or entity that provides local exchange service.

“Wireline enhanced 911 service”, service provided by a wireline carrier that connects a subscriber dialing or entering the digits 911 to a PSAP.

Section 18B. (a) There shall be, within the executive office of public safety and security, a state 911 department. The secretary of public safety and security shall, with the

advice of the commission, appoint and, subject to appropriation or funds otherwise available from other sources, fix the salary of an executive director of the department. The director shall be responsible for administering, directing and managing the affairs and business of the department, and for the appointment and supervision of all personnel at the department. The director shall not be subject to section 9A of chapter 30 or chapter 31, but shall be classified in accordance with section 45 of said chapter 30 and the salary therefore shall be determined in accordance with section 46C of said chapter 30. The executive director may appoint such other employees, including experts and consultants, as he deems necessary, subject to appropriation or available funds, to carry out the department's responsibilities.

(b) There shall be, within the executive office of public safety and security, a state 911 commission to provide strategic oversight and guidance to the department, and advise the department relative to its annual budget and all material changes thereto and in all matters regarding enhanced 911 service in the commonwealth. The commission shall consist of: the secretary of public safety and security, who shall serve as chairperson of the commission; the chief information officer of the information technology division; the colonel of state police; the state fire marshal; the police commissioner of the city of the Boston; the director of the Massachusetts office on disability; the commissioner of public health; the commissioner of the Massachusetts commission for the deaf and hard of hearing; and 11 members to be appointed by the governor, 1 of whom shall be a sitting police chief and a nominated representative of the Massachusetts Chiefs of Police Association, 1 of whom shall be a representative of the Massachusetts Police Association, 1 of whom shall be a sitting police chief and a nominated representative of the Massachusetts Major City Chiefs Association, 2 of whom shall be sitting fire chiefs and nominated representatives of the Massachusetts Fire Chiefs Association, 1 of whom shall be a nominated representative of the Professional Fire Fighters of Massachusetts, 1 of whom shall be a nominated representative of the Massachusetts Sheriffs Association, 1 of whom shall be a nominated representative of the Massachusetts Municipal Association, 1 of whom shall be a nominated representative of the Massachusetts Emergency Medical Care Advisory Board, 1 of whom shall be a nominated representative of the Massachusetts Ambulance Association, and 1 of whom shall be a manager or supervisor of a PSAP and a nominated representative of the Massachusetts Communication Supervisors Association. One of the governor's appointees shall be elected annually by the commission as its vice chairperson. Members of the commission shall be appointed for terms of 3 years with no limit on the number of terms they may serve. Members shall hold office until a successor is appointed and no member shall serve beyond the time he ceases to hold the office or employment that made him eligible for appointment to the commission. The commission shall meet at least twice annually, and at other times as necessary. A meeting of the commission may be called by its chairperson, the vice chairperson or 3 of its members. A quorum for the transaction of business shall consist of 7 members. Members of the commission shall receive no compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The commission shall review and approve by a majority vote of those members present all



formulas, percentages, guidelines or other mechanisms used to distribute the grants described in section 18B, and all major contracts that the department proposes to enter into for enhanced 911 services. The commission shall review and approve by a majority vote of those members present all regulations and standards proposed by the department.

(c) There shall be established a policy advisory committee for the sole purpose of advising the state 911 commission and state 911 department on pertinent subject matter relative to enhanced 911 service, enhanced 911 systems and enhanced 911 network features. The advisory board shall consist of 5 members, 1 of whom shall represent an incumbent local exchange carrier, 1 of whom shall represent a competitive local exchange carrier registered in the commonwealth, 1 of whom shall represent a PSAP customer premises equipment provider, 1 of whom shall represent an interconnected VoIP provider, and 1 of whom shall represent a wireless carrier. Members of the advisory board shall be residents of the state and shall be appointed by the governor from a list of qualified candidates provided by industry representatives for terms of 3 years with no limit on the number of terms they may serve. A meeting of the policy advisory committee may be called by the state 911 commission chairperson, vice chairperson, or 3 of its members. Members of the policy advisory committee shall receive no compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The advisory board shall review all issues relative to industry interaction and network compatibility with the current enhanced 911 system, and with next generation 911. The policy advisory committee shall file a written report annually with the state 911 commission and the state 911 department.

(d) The department shall coordinate and effect the implementation of enhanced 911 service, and administer such service in the commonwealth. The department, with the commission's approval, shall promulgate rules and regulations for the administration of such service in accordance with chapter 30A, including technical and operational standards for the establishment of PSAPs which utilize enhanced 911 service features in accordance with sections 18A to 18J, inclusive, and section 14A of chapter 166 . Cities and towns shall comply with such standards in the design, implementation and operation of PSAPs. The department may inspect any PSAP that utilizes enhanced 911 network features to determine if it meets the requirements of said sections and all other technical and operational standards required by law. In implementing wireless enhanced 911 service and enhanced 911 for IP-enabled services, the department shall promulgate rules and regulations consistent with the provisions required by the FCC.

(e) The number of PSAPs and enhanced 911 answering positions at primary and regional PSAPs shall be determined by the department according to a formula that takes into account cost, call volume, population, efficiency and the public safety needs of cities and towns. Applications for secondary PSAPs shall be reviewed and approved by the department. The PSAP customer premises equipment, installation and operation costs of secondary PSAPs shall be the responsibility of the applicant, but the department may provide such equipment and related maintenance if the applicant so requests and meets eligibility re-

quirements established by the department in standards approved by the commission. Network and database services for secondary PSAPs shall be provided as approved by the department. Applications for regional secondary PSAPs shall be reviewed and approved by the department. The PSAP customer premises equipment and installation of such equipment shall be provided by the department from the development grant set forth in paragraph (5) of subsection (i) in accordance with guidelines to be established by the department with the commission's approval. Network and database services for regional secondary PSAPs shall be provided as approved by the department.

(f) The department shall disburse funds from the Enhanced 911 Fund for prudently-incurred expenses associated with: the lease, purchase, upgrade or modification of primary and regional PSAP customer premises equipment and the maintenance of such equipment; network development, operation and maintenance; database development, operation, and maintenance; training of 911 telecommunicators regarding the receipt and use of enhanced 911 service information; education of consumers regarding the operation, limitation, role and responsible use of enhanced 911 service; grants associated with enhanced 911 service as set forth in subsection (i) and any other grant approved by the department associated with providing enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of communication services providers in providing enhanced 911 service in the commonwealth to the extent required by federal or Massachusetts law or regulation or federal or Massachusetts agency decision or order; and other expenses incurred by the state 911 department in administering and operating the enhanced 911 system in the commonwealth.

(g) Consistent with federal law and regulation, the department, with the commission's approval, shall establish: performance measure standards for the enhanced 911 service provider for network, database, and PSAP customer premises equipment and associated maintenance services; service level standards for communication services providers for providing enhanced 911 service in the commonwealth including, but not limited to, standards for the provision of enhanced 911 access for the disabled community; certification requirements for enhanced 911 telecommunicators including, but not limited to, emergency medical dispatch and quality assurance of emergency medical dispatch programs; standards requiring PSAPs to have certified emergency medical dispatch personnel or to provide emergency medical dispatch through a certified emergency medical dispatch resource; and guidelines for developing and administering any grant authorized in subsection (i), or any other grant associated with providing enhanced 911 service in the commonwealth approved by the commission and the department of telecommunications and cable upon the petition of the department including, but not limited to, provisions requiring municipalities to provide documentation of expenditures. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department

shall initiate a voluntary program in which municipalities may contribute timely address information to support the enhanced 911 database.

(h) The department shall review and assess the technological and operational capability and financial feasibility of wireless 911 calls being routed to and handled directly by the PSAP in which the caller is located, and if such capability exists, the department shall establish standards, with the commission's approval, by which such PSAPs may receive wireless calls. The department shall review and assess new communications technologies that may include, but are not limited to, wireless, video, broadband, and IP-based applications that may serve as the next generation 911 technology platforms, consistent with FCC decisions and federal law.

(i) The department shall develop and administer grant programs to assist PSAPs and regional emergency communication centers in providing enhanced 911 service and to foster the development of regional PSAPs, regional secondary PSAPs and regional emergency communication centers. The following grant programs shall be funded by the department as specified, and the department may add necessary personnel to develop and administer such grant programs as set forth in subparagraphs (1) to (5), inclusive.

(1) The PSAP and regional emergency communication center training grant shall reimburse primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to the training and certification of enhanced 911 telecommunicators. Funds shall be disbursed according to a formula that weighs both population served and 911 call volume, unless a different formula is approved by the commission. Five per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 7.5 per cent or more shall also be approved by the department of telecommunications and cable, upon petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 3.75 per cent of the total surcharge revenues of the previous fiscal year.

(2) The PSAP and regional emergency communication center support grant shall reimburse: primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to enhanced 911 telecommunicator personnel costs, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment and other environmental control equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarm receipt and alert equipment associated with providing enhanced 911 service; regional PSAPs and regional emergency communication centers for allowable expenses related to the acquisition and maintenance of public safety radio systems; regional secondary PSAPs for allowable expenses related to PSAP customer premises equipment maintenance; and primary, regional,



and regional secondary PSAPs and regional emergency communication centers for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds shall be disbursed according to a formula that weighs both population served and 911 call volume, unless a different formula is approved by the commission. Twenty-five per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 31.25 per cent or more shall also be approved by the department of telecommunications and cable, upon petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 18.75 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may include provisions to increase the allocation of funds to primary PSAPs provided under this grant that dispatch police, fire protection and emergency medical services, taking into account if any such services are provided by a private safety department. The department may include in such guidelines provisions to increase the allocation of funds to regional secondary PSAPs that dispatch any combination of regional police, fire protection or emergency medical services.

(3) The wireless state police PSAP grant shall reimburse the wireless state police PSAPs for allowable expenses related to enhanced 911 telecommunicator personnel costs, training and certification of enhanced 911 telecommunicators, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarming receipt and alert equipment to be used at the state police PSAPs. The grant shall reimburse such PSAPs for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds shall not be used for any equipment or services that are not directly related to the provision of enhanced 911 services or the operation of the state police PSAPs. Four per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 6 per cent or more shall also be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 2 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may

include provisions to increase the allocation to the wireless state police PSAPs to account for such PSAPs handling of wireline 911 calls for municipalities.

(4) The regional PSAP and regional emergency communication center incentive grant shall provide regional PSAPs and regional emergency communication centers with funds in addition to amounts allocated as part of the PSAP and regional emergency communication center support grant to be used for reimbursement of allowable expenses as specified in the support grant for regional PSAPs and regional emergency communication centers in the following amounts: (i) for regional PSAPs serving 2 municipalities,  $\frac{1}{2}$  of 1 per cent of the total surcharge revenues of the previous fiscal year; (ii) for regional PSAPs serving 3 to 9 municipalities, 1 per cent of the total surcharge revenues of the previous fiscal year; (iii) for regional PSAPs serving 10 or more municipalities,  $1\frac{1}{2}$  per cent of the total surcharge revenues of the previous fiscal year; and (iv) for regional emergency communication centers, 2 per cent of the total surcharge revenues of the previous fiscal year. The percentages in clauses (i) to (iv), inclusive, may be adjusted by the commission to ensure a proper allocation of incentive funds as more regional PSAPs and regional emergency communication centers are added. Any such adjustments that increase the initial total allocation of the incentive grant by 10 per cent or more shall be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days.

(5) The regional and regional secondary PSAP and regional emergency communication center development grant shall support the development and startup of regional and regional secondary PSAPs and regional emergency communication centers, including the expansion or upgrade of existing regional and regional secondary PSAPs, to maximize effective emergency 911 and dispatch services as well as regional interoperability. The eligibility for criteria, amount and allocation of funding shall be contained in guidelines established by the department, with commission approval. The grant shall reimburse allowable expenses related to such development and startup, or expansion or upgrade. Any subsequent adjustments that increase the initial funding allocated to this grant by 10 per cent or more shall be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days.

(j) The department shall file a written annual report with the governor and shall file a copy thereof with the state secretary, the clerks of the house of representatives and the senate who shall forward such report to the joint committee on public safety and homeland security and the house and senate ways and means committees. The department shall review and monitor the expenditures incurred under the grant programs established in this section

to ensure compliance with grant guidelines. The department shall include a reporting of grant expenditures by municipality in the written annual report. Not later than June 30, every 3 years, the department shall prepare a report documenting the expenditures of each recipient of funds from surcharge revenues to ensure compliance with applicable statutes and regulations.

(k) The department may enter into contracts and agreements with, and accept gifts, grants, contributions and bequests of funds from, any department, agency or subdivision of federal, state, county or municipal government and any individual, foundation, corporation, association or public authority for the purpose of providing or receiving services, facilities or staff assistance in connection with its work. Such funds shall be deposited with the state treasurer and credited to the Enhanced 911 Fund.

(l) No provision of this section shall be construed or interpreted to alter the regulation of providers of telecommunications services under chapter 159.

(m) The department shall work with the Massachusetts office on disability, the Massachusetts commission for the deaf and hard of hearing, the disability community and with municipalities to ensure that communication services providers are aware of the availability and use of adaptive technology, and to ensure that enhanced 911 service is accessible to people with disabilities.

**SECTION 3.** Said chapter 6A is hereby further amended by striking out section 18C, as so appearing, and inserting in place thereof the following section:-

Section 18C. (a) Each PSAP shall be capable of transmitting a request for law enforcement, fire fighting, medical, ambulance or other emergency services to a public or private safety department that provides the requested services.

(b) Each primary and regional PSAP shall be equipped with a system approved by the department for the processing of requests for emergency services from people with disabilities.

(c) Except as approved by the department, no person shall permit an automatic alarm or other alerting device to dial the numbers 911 automatically or provide a prerecorded message in order to access emergency services directly.

(d) A public safety department or private safety department that receives a request for emergency service outside of its jurisdiction shall promptly forward the request to the PSAP or public safety department responsible for that geographical area. Any emergency unit dispatched to a location outside its jurisdiction in the commonwealth in response to such request shall render service to the requesting party until relieved by the public safety department responsible for that geographical area.

(e) Municipalities may enter into written cooperative agreements to carry out subsections (a), (b) and (d).

**SECTION 4.** Said chapter 6A is hereby further amended by striking out section 18D, as so appearing, and inserting in place thereof the following section:-

Section 18D. (a) Each municipality in the commonwealth, under the requirements



of chapter 150E, shall establish, staff and operate, in conjunction with 1 or more other municipalities or governmental bodies, as determined by the department, or by itself, a PSAP on a 24 hour a day, 7 days a week basis, in a manner and according to a schedule to be approved by the department.

(b) The department shall review each proposed municipal or regional plan to determine if it meets the requirements of sections 18A to 18J, inclusive, and the technical and operational standards established by the department. The department shall require primary and regional PSAPs to display automatic number identification, automatic location identification and may require other enhanced 911 features that are or may become available and set forth in the department's regulations, standards and guidelines for administration of statewide enhanced 911 services. The primary and regional PSAP shall be designed according to the plan as specified in subsection (c).

(c) The department shall develop and maintain a statewide plan for the implementation and maintenance of enhanced 911 service consistent with federal law and regulation, including next generation 911 and IP-enabled 911 services and, if the technological and operational capability and financial feasibility exists, the routing of 911 wireless calls to primary and regional PSAPs. Such plan shall include the following:

(1) a division of the commonwealth into geographical segments under which an enhanced 911 system shall be established for each municipality, or by groups of municipalities, or by other governmental bodies, or groups of other governmental bodies, or by a combination of municipalities or governmental bodies, as specified and approved by the department;

(2) an implementation schedule, developed after consultation with communication services providers for the sequence of converting to enhanced 911 systems or next generation 911 systems;

(3) a designation, within each enhanced 911 system, of the municipalities and the public safety departments within such municipalities to serve as the primary or regional PSAPs. The department shall also evaluate the need for secondary and regional secondary PSAPs in municipalities which have requested them. It shall be the responsibility of the department to make the final determination regarding the total number and location of such PSAPs; and

(4) the department shall, not later than September 30, annually, review the existing configuration of primary, regional, regional secondary, limited secondary and ringing PSAPs and develop changes or recommendations for change by December 31, annually.

**SECTION 5.** Said chapter 6A is hereby further amended by striking out section 18E, as so appearing, and inserting in place thereof the following section:-

Section 18E. The attorney general may, at the request of the department or on the attorney general's own initiative, institute civil proceedings against any municipality or other governmental body operating a PSAP, or any enhanced 911 service provider or communication services provider, to enforce sections 18A to 18J, inclusive.

**SECTION 6.** Section 18F of said chapter 6A is hereby repealed.

**SECTION 7.** Said chapter 6A is hereby further amended by striking out section 18G, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 18G. The department shall require that each PSAP that possesses enhanced 911 service shall retain 911 recordings for a period of not less than 1 year.

**SECTION 8.** Said chapter 6A is hereby further amended by striking out section 18H, as so appearing, and inserting in place thereof the following section:-

Section 18H. (a) There shall be imposed on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system, a surcharge in the amount of 75 cents per month for expenses associated with services provided under sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166. For wireline enhanced 911 service, the charge shall be imposed on each voice grade exchange telephone line of business and residence customers within the commonwealth, but the surcharge applicable to centrex service and ISDN primary rate interface service shall be based on an equivalency ratio provided to each private branch exchange trunk. For wireless enhanced 911 service, the charge shall be imposed per wireless mobile telephone number, based on the area code chosen by the subscriber or end user. With the approval of the department, a wireless carrier may impose this surcharge based on the subscriber's or end user's billing address or other manner consistent with federal law. For interconnected VoIP provider service, the charge shall be imposed on each voice grade telephone line of business and residence customers within the commonwealth, but the surcharge applicable to such interconnected VoIP provider service that is comparable to centrex service and ISDN primary rate interface service associated with wireline enhanced 911 service shall be based on an equivalency ratio similar to that used for wireline enhanced 911 service. For IP-enabled service, the charge shall be imposed based on the subscriber's or end user's billing address in the commonwealth except for interconnected VoIP provider service, unless a different method is approved by the department. For prepaid wireless service, the department shall promulgate regulations establishing an equitable and reasonable method for the remittance and collection of the surcharge or surcharge amounts for such service. For all other services not identified above, the surcharge shall be imposed based on the subscriber's billing address in the commonwealth, unless a different method is approved by the department.

The surcharge shall be collected by the communication service provider and shall be shown on the subscriber's or end user's bill as "Disability Access/Enhanced 911 Service Surcharge", or an appropriate abbreviation. The surcharge shall not be subject to sales or use tax. The subscriber or end user shall be liable for the surcharge imposed under this section, and the communication service provider shall not be financially liable for surcharges billed on behalf of the commonwealth but not collected from subscribers or end users. Partial subscriber or end user payments shall be first applied to outstanding communication service provider charges.

(b) The department may petition the department of telecommunications and cable for

an adjustment in the surcharge established in subsection (a). The department of telecommunications and cable shall be responsible for establishing the new surcharge, and all future surcharges, upon petition of the department. The department of telecommunications and cable, at its discretion but not more than once per calendar year, may investigate the prudence of the department's revenue and expenditures for the purpose of recalculating the surcharge, and may hire experts to assist in its investigation. The reasonable cost of such experts shall be charged to the Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may be adjusted to reflect changes in the consumer price index. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the commencement of the investigation, but the surcharge shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days. The department of telecommunications and cable shall adopt rules that provide for the funding of prudently incurred expenses associated with services provided by sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166, by means of the surcharge. The department shall report annually to the department of telecommunications and cable on the financial condition of the Enhanced 911 Fund and on the department's assessment of new developments affecting the enhanced 911 system. The report shall be submitted to the department of telecommunications and cable within 60 days of the end of each fiscal year. The department of telecommunications and cable shall file an annual report with the clerks of the house of representatives and the senate relative to the financial condition of the Enhanced 911 Fund.

(c) The department shall seek the approval of the department of telecommunications and cable for projected total expenditures that exceed total expenditures of the previous fiscal year by 10 per cent or more. The department of telecommunications and cable may investigate the reasonableness of the expenditures and shall conduct its review and issue a decision within 90 days from the date the department files its request for approval, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days. The department of telecommunications and cable shall notify the department of its intent to investigate within 20 days of the date the department files its request for approval. The department's request for approval shall be deemed approved in the absence of the department of telecommunication and cable's notification to the department of its intent to investigate. If the department of telecommunication and cable notifies the department that it intends to investigate an expenditure, the department of telecommunications and cable may hire experts to assist in its investigation. The reasonable cost of the experts shall be charged to the Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may be adjusted to reflect changes in the consumer price index.

(d) Each communication service provider shall remit the surcharge revenues collected from its subscribers or end users to the state treasurer for deposit in the Enhanced 911 Fund. The surcharge revenues shall be expended for the administration and programs of the department including, but not limited to, salaries, enhanced 911 training programs, enhanced



911 public education programs, the creation of PSAP customer premises equipment for, and maintenance of, primary and regional PSAPs, the programs mandated by section 18B and sections 14A and 15E of chapter 166, and for the implementation and administration of enhanced 911 service in the commonwealth.

(e) Each communication service provider required to remit surcharge revenues shall submit to the department and the department of telecommunications and cable information on its business entity including, but not limited to, name, business address, contact person and the telephone number, fax number and e-mail address of such contact person. Each such provider shall update this information annually.

(f) Each communication service provider shall report to the department on a monthly basis the total surcharge revenues collected from its subscribers or end users during the preceding month, the total uncollected surcharge revenues from subscribers or end users during the preceding month, the total amount billed to the department for administration costs to cover the expenses of billing, collecting and remitting the surcharge during the preceding month, and the total amount billed to the department for non-recurring and recurring costs associated with any service, operation, administration or maintenance of enhanced 911 service during the preceding month. Such monthly report shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66.

(g) A communication service provider shall forward to any PSAP or any other answering point equipped for enhanced 911 service, or upon request consistent with federal law, to a municipal, state, or federal law enforcement agency, the department of telecommunications and cable, the FCC or the department, the telephone number and street address or location of any telephone used to place a 911 call, and any other call data or information required by the FCC to be transmitted to a PSAP.

Subscriber or end user information or data provided in accordance with this section shall be used, consistent with federal law, only for the purpose of responding to emergency calls, administering and operating the enhanced 911 system and providing enhanced 911 service, or for use in any ensuing investigation or prosecution, including the investigation of false or intentionally misleading reports of incidents requiring emergency service. No communication service provider or officers, directors, employees, vendors or agents shall be liable in any action to any person for releases of information authorized by this section or for civil action resulting from or caused by such providers for participation or omissions in the development, installation, operation, maintenance, performance or provision of enhanced 911 service except for wanton or willful misconduct. Release to or use by any person of a communication service provider's subscriber or end user information or data for any use other than the purposes enumerated in this subsection shall be prohibited. Notwithstanding any general or special law to the contrary, such information or data shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66, except that aggregated information that does not identify or effectively identify specific subscriber or end user information or data may be made public.

(h) The department shall examine call volumes of all primary, regional and regional secondary PSAPs, and the population changes of the municipalities they serve, and may use such information in determining the disbursement of funds as set forth in section 18B.

**SECTION 9.** Section 18H½ of said chapter 6A is hereby repealed.

**SECTION 10.** Said chapter 6A is hereby further amended by striking out section 18I, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2 sections:-

Section 18I. Notwithstanding any general or special law to the contrary, a municipality or other governmental body, under the requirements of chapter 150E, may modify, change or alter communication equipment used in the municipality's or other governmental body's enhanced 911 system in order to permit the monitoring of emergency 911 communications by the fire department of the municipality or other governmental body at a secure location staffed at all times by fire department personnel fully trained in such monitoring. The emergency 911 communications shall be monitored in a manner that prevents any broadcast of such communications to the general public. The secure location used for monitoring emergency 911 communications shall be restricted to trained fire department personnel when such communications are being monitored. No such modification or change in a municipality's or other governmental body's wireline carrier equipment or enhanced 911 system shall cause any degradation of the state's 911 system.

Section 18J. Beginning July 1, 2009, any new or substantially renovated multi-line telephone system shall provide the same level of enhanced 911 service that is provided to others in the commonwealth. The department shall adopt regulations to implement this requirement. In such regulations the department may exempt certain multi-line telephone systems from this requirement based on such factors as costs and the public benefits of compliance, except that accessibility of such a system to people with disabilities may only be waived if the proponent of the waiver has shown it to be technologically infeasible or of excessive cost without benefit to the disability community. For the purposes of this section, a "multi-line telephone system" shall mean a system comprised of common control units, telephones and control hardware and software providing local telephone service to multiple end-use customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities or structures. "Multi-line telephone system" shall include: (1) network and premises based systems such as centrex, pbx and hybrid key telephone systems; and (2) systems owned or leased by governmental agencies, nonprofit entities and for-profit businesses.

**SECTION 10A.** Said chapter 6A is hereby further amended by inserting after section 18J the following section:-

Section 18K. Sections 18A to 18J, inclusive, shall not be construed to limit or expand the authority to regulate communication service providers under chapters 159 or 166 nor construed to authorize the department, or any other agency, department or subdivision of government, to regulate the rates, terms or conditions of interconnected VoIP service providers or IP-enabled services, other than for the enhanced 911 surcharge or the provision

of enhanced 911 services under said sections 18A to 18J, inclusive.

**SECTION 11.** Section 35W of chapter 10 of the General Laws is hereby repealed.

**SECTION 12.** Section 35W½ of said chapter 10 is hereby repealed.

**SECTION 13.** Said chapter 10 is hereby further amended by inserting after section 35II, inserted by section 3 of chapter 169 of the acts of 2008, the following section:-

Section 35JJ. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Enhanced 911 Fund. There shall be credited to such fund all revenues received by the commonwealth from: surcharges imposed under section 18H of chapter 6A; appropriations; gifts, grants, contributions and bequests of funds from any department, agency or subdivision of federal, state or municipal government, and any individual foundation, corporation, association or public authority; revenue derived from the investment of amounts credited to the fund; and any federal funds made available for emergency telecommunication services. The fund shall be used solely for the purposes described in sections 18A to 18J, inclusive, of said chapter 6A.

(b) Amounts credited to the fund shall be available for expenditure by the state 911 department, without further appropriation. The state 911 department shall report annually to the general court its planned expenditures for the next fiscal year; the uses to which the fund was used in the last fiscal year and the balance remaining in the fund; and the aggregate surcharges collected in the last fiscal year based upon monthly reports of communication services providers as required under subsection (f) of section 18H of chapter 6A. The report shall also include a request, if necessary, for appropriation for deposit into the fund.

**SECTION 13A.** Section 2 of chapter 111C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 48, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

**SECTION 13B.** Section 3 of said chapter 111C, as so appearing, is hereby amended by striking out, in line 54, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

**SECTION 13C.** Section 13 of said chapter 111C, as so appearing, is hereby amended by striking out, in line 24, the words “statewide emergency telecommunication board” and inserting in place thereof the following words:- state 911 department.

**SECTION 13D.** Section 59 of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words “statewide emergency telecommunication board” and inserting in place thereof the following words:- state 911 department.

**SECTION 14.** Chapter 166 of the General Laws is hereby amended by striking out section 14A, as so appearing, and inserting in place thereof the following section:-

Section 14A. (a) In order to establish statewide enhanced 911 service, upon the written request of the state 911 department, established by section 18B of chapter 6A, hereinafter referred to as the department, each telephone company providing local exchange



service in the commonwealth shall provide and maintain enhanced 911 service in compliance with a schedule established by the department after consultation with such phone company.

(b) Each municipality in the commonwealth shall be served by a primary or regional PSAP, that utilizes enhanced 911 network features in accordance with the implementation schedule established by the department under section 18D of chapter 6A.

(c) No provision of law shall be construed to prohibit or discourage the formation of multi-department, multi-jurisdictional or regional PSAPs, or regional emergency communication centers. Any PSAP may serve the jurisdiction of more than 1 public department or a segment of the jurisdiction of a municipality.

(d) A telephone company shall forward to any PSAP or any other answering point equipped for enhanced 911 service, the telephone number and street address of any telephone used to place a 911 call. Subscriber information provided in accordance with this section shall be used only for the purpose of responding to emergency calls or for use in any ensuing investigation or prosecution, including the investigation of false or intentionally misleading reports of incidents requiring emergency service. No telephone company, nor the agents of any telephone companies, shall be liable in any action to any person for the release of information as permitted in this section.

(e) As enhanced 911 service becomes available and where facilities are available, each telephone company and owner of a private coin telephone in the commonwealth shall convert each public coin or coinless telephone within areas served by such enhanced 911 service to dial tone first capability, to allow a caller to dial 911 without first inserting a coin or paying any other charge. Each provider of public coin or coinless telephone shall provide access to enhanced 911 service, and prominently display instructions on use of such system.

**SECTION 15.** Said chapter 166 is hereby further amended by striking out section 15E, as appearing in section 47 of chapter 19 of the acts of 2007, and inserting in place thereof the following section:-

Section 15E. (a) As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

“Captioned telephone”, an amplified telecommunications device with a text display that permits the user to both listen to what is said over the telephone and simultaneously read captions of what the other person is saying, thereby allowing a hard of hearing person to utilize captioned telephone service.

“Captioned telephone service”, an enhanced voice carry over telecommunications relay service, a system which uses third party intervention to connect persons with a hearing disability but with some residual hearing, to engage in communication, by wire or radio, with a hearing individual in a manner that is functionally equivalent to the ability of an individual, who does not have a hearing disability, to communicate using voice communication services, by wire or radio.

“Common carrier”, as common carrier is used in chapters 159 and 166, and referring to a business in the commonwealth that is a provider of local exchange service, so-called, to

1,000 or more subscribers. For the purposes of this section, the term shall also include a municipal lighting plant or cooperative that operates a telecommunications system under section 47E of chapter 164.

“Communication services”, includes: (a) the transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used; (b) the ability to provide two-way voice communication on the public switched network; (c) wireless enhanced 911 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service, as defined by Federal Communication Commission regulations; (f) IP-enabled service, as defined in section 18A of chapter 6A; or (g) prepaid wireless service.

“Communication service provider”, an entity that provides communication services to a subscriber or end user.

“Deaf”, a severe to profound hearing loss resulting in the majority of circumstances, in an inability to effectively use a conventional telephone without the assistance of a test telephone or other nonvoice terminal device.

“Department”, the state 911 department.

“Disability”, a physical, cognitive, sensory or mental impairment that substantially limits 1 or more major activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning or working, and results in an inability to use a telephone without the assistance of specialized telephone equipment.

“FCC”, the Federal Communications Commission.

“Hard of hearing”, a hearing loss resulting, in the majority of circumstances, in an inability to effectively use a telephone without the assistance of a sound amplification control or a telephone without the use of a hearing aid and a hearing aid compatible handset.

“Hearing carry over” or “HCO”, a form of telecommunications relay service, or TRS, with which a person with a speech disability is able to listen to the other end user and, in reply, a third party speaks the text as typed by the person with the speech disability and the third party does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use 1 telephone line for hearing and the other for sending text telephone, or TTY, messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-HCO allows a relay conversation to take place between 2 HCO users.

“Public coin and coinless telephone”, a telephone operated by coin or credit card and located in high use areas that return substantial revenue from the operation thereof including, but not limited to, police stations, hospitals, airports, bus terminals, train stations, libraries, social security, medicaid and medicare offices and shopping centers.

“Semi-public coin and coinless telephone”, a telephone operated by coin or credit card and located in low use areas that return moderate revenue from the operation thereof including, but not limited to, convalescent homes, elderly housing complexes and small meeting houses.

“SCPE”, specialized, customer-premises equipment, such as artificial larynxes, signaling devices, amplified handset, hands-free telephones, text telephones, memory telephones, direct telephone dialing device, braille text telephones, captioned telephone, and other devices which provide access to telephone networks for people with a hearing, speech, vision, mobility or cognitive disability.

“SCPE distribution service”, a system of administration and record keeping, as well as distribution, repair and replacement of SCPE units for certified subscribers.

“Text telephone” or “TTY”, a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term “TDD” or “telecommunications device for the deaf” .

“Telecommunications relay service” or “TRS”, a telephone transmission service that provides an individual with a hearing or speech disability the ability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. TRS includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, and non-English relay services. TRS supersedes the terms “dual party relay system,” “message relay services,” and “TDD relay.”

“Voice carry over service”, or “VCO”, a form of TRS with which a person with a hearing disability is able to speak directly to the other end user when a third party types the response back to the person with the hearing disability and the third party does not voice the conversation. Two-line VCO is a VCO service that allows TRS users to use 1 telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take place between 2 VCO users.

(b) The department shall provide and maintain a SCPE distribution service, and shall make such services available to any residential subscriber who is: (i) certified by the Massachusetts commission on the deaf and hard of hearing as sufficiently deaf or hard of hearing to be in need of SCPE equipment; (ii) certified by the Massachusetts commission for the blind as sufficiently visually impaired to be in need of SCPE equipment; or (iii) certified by the Massachusetts rehabilitation commission as otherwise sufficiently disabled to be in need of SCPE equipment. Each commission may designate the department to administer the certification process required under this section. For the purposes of making this certification, the respective aforementioned commissions shall require a written verification of the claimed disability by a physician, certified audiologist or optometrist, or other medical professional qualified to verify the disability claimed, and licensed to do business in the commonwealth. The department, upon the request of a certified subscriber, shall provide SCPE equipment to the requesting subscriber. The SCPE distribution service shall include the reasonable distribution and replacement of SCPE equipment free of charge, to certified subscribers subject to this subsection and subsection (c). Such service shall be provided free



of charge, or at reduced rates if the department of telecommunications and cable first certifies that the requesting subscriber is unable to afford SCPE equipment at its full cost. Any reduced rate shall be in accordance with a rate schedule established by the department of telecommunications and cable.

(c) The department and the Massachusetts commission for the deaf and hard of hearing shall review the services specified in subsection (b) and make recommendations to the department of telecommunications and cable as to whether it conforms with the provisions herein. Prior to the implementation of services under subsection (b), the department and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the department of telecommunications and cable's review and approval seeking competitive bids from qualified vendors to provide such services. Communications services providers shall be permitted to submit a competitive bid to provide the aforementioned services. In any rate proceeding conducted under chapter 159 in which a common carrier seeks to reflect the costs for such services in rates, the carrier shall submit to the department of telecommunications and cable information about such requests for proposals such that the department of telecommunications and cable may determine whether the carrier's proposal would provide such services at a cost to the carrier that reflects the least cost to its ratepayers with due regard for standards of reliability and quality, consistent with the public interest.

(d) The department shall encourage prospective vendors of telecommunications relay service to provide such service from a center located within the commonwealth using residents of the commonwealth as employees of such center. Preference in employment at such center shall be given to people with disabilities as defined by this section. Specialty types of TRS shall not be required to be provided from a telecommunications service center located in the commonwealth.

(e) The department and the Massachusetts commission for the deaf and hard of hearing shall review the services specified in subsection (d) and make recommendations to the department of telecommunications and cable as to whether it conforms with the provisions herein. Prior to the implementation of such services, the department and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the department of telecommunications and cable's review and approval seeking competitive bids from qualified vendors to provide the aforementioned services. Communication services providers shall be permitted to submit a competitive bid to provide such services. In any rate proceeding conducted under chapter 159 in which a common carrier seeks to reflect the costs for such services in rates, such carrier shall submit to the department of telecommunications and cable information about such requests for proposals such that the department of telecommunications and cable may determine whether the carrier's proposal would provide such services at a cost to the carrier that reflects the least cost to its ratepayers with due regard for standards of reliability and quality, consistent with the public interest.

(f) The department of telecommunications and cable, in accordance with its certification by the FCC under 47 CFR 64.604 and 64.606 shall have general oversight over all aspects of the provision of the SCPE and TRS programs, unless such certification is not renewed or is revoked. Such oversight shall include, but shall not be limited to, authority over the rates, terms, and conditions, service quality, and enforcement of federal minimum standards for the provision of such services.

(g) Any person, firm, corporation or other entity that provides public coin or coinless telephone service or semi-public coin or coinless telephone service, shall provide and maintain its public or semi-public telephones with a minimum of 25 per cent of its public or semi-public telephones with controls for sound amplification of incoming transmission consistent with Massachusetts Architectural Access Code, as provided in 521 CMR 1.0 to 47, inclusive .

(h) There shall be an advisory committee on accessibility to communication services for disabled persons. The advisory committee shall consist of the secretary of health and human services or his designee; the commissioner of the Massachusetts commission for the deaf and hard of hearing or his designee; the commissioner of the Massachusetts rehabilitation commission or his designee; the commissioner of the Massachusetts commission for the blind or his designee; the director of the Massachusetts office on disability or his designee; and 12 persons to be appointed by the governor, 2 of whom shall be persons who are deaf, 2 of whom shall be persons who are hard of hearing, and 2 who are blind, 2 with other significant vision impairments, 2 with impaired speech, and 2 with impaired mobility or motor skills. Each such member of the advisory committee shall serve for a term of 3 years. The chairperson of the advisory council shall be appointed by the governor and shall serve in such capacity for a term of 1 year. The advisory council shall meet at least quarterly and shall make recommendations to the department and the department of telecommunications and cable on all matters of policy related to communication services and equipment for people with disabilities.

(i) The department, in consultation with the department of telecommunications and cable and the advisory committee on accessibility to telephone services for disabled persons, shall promulgate necessary regulations to implement this section.

**SECTION 16.** Chapter 269 of the General Laws is hereby amended by inserting after section 14A the following section:-

Section 14B. As used in this section, the following words shall have the following meanings:-

“Emergency response services provider”, a police department, fire department, emergency medical service provider, PSAP, public safety department, private safety department or other public safety agency.

“PSAP”, a facility assigned the responsibility of receiving 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety agencies or other PSAPs.

“Silent call”, a call or other communication made to a PSAP in which the initiating party fails to provide information regarding his or her identity or location or the nature of the emergency. The initiating party shall not be considered to have provided any information that is automatically transmitted by a communication device or network upon connection with a PSAP including, but not be limited to, automatic location information and automatic number information.

(a) Whoever willfully and maliciously communicates with a PSAP, or causes a communication to be made to a PSAP, which communication transmits information which the person knows or has reason to know is false and which results in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency; or (b) whoever willfully and maliciously, makes or causes to be made 3 or more silent calls to any PSAP and thereby causes emergency services to be dispatched 3 or more times shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$1,000. Whoever commits a second or subsequent violation of this section shall be punished by imprisonment in the house of correction for not more than 2½ years or by imprisonment in the state prison for not more than 10 years or by a fine of not more than 5,000 dollars, or by both such fine and imprisonment.

(b) Upon any conviction of this section, the court shall conduct a hearing to ascertain the extent of costs incurred, and damages and financial loss sustained by any emergency response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. Restitution shall not be waived and shall be imposed in addition to any imprisonment or fine, and not in lieu thereof, except that the court shall consider the defendant’s present and future ability to pay restitution in its determinations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose upon the defendant.

**SECTION 17.** Notwithstanding any general or special law to the contrary, balances as of July 31, 2008 in the Wireless Enhanced 911 Fund, established by section 35W of said chapter 10 of the General Laws, and in the Wireline Enhanced 911 Fund established by section 35W½ of said chapter 10, shall be transferred and deposited into the Enhanced 911 Fund, established by section 35JJ of said chapter 10. All revenue remitted after July 31, 2008 from 911 surcharges in effect under sections 18H and 18H½ of chapter 6A of the General Laws through July 31, 2008 shall be deposited into said Enhanced 911 Fund established by said section 35JJ of said chapter 10.

**SECTION 18.** 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 statewide emergency telecommunications board, as the transferor agency, to the state 911 department, as the transferee agency, as follows:



(a) subject to appropriation, the employees of the statewide emergency telecommunications board, including those who immediately before the effective date of this act held permanent appointment in positions classified under chapter 31 of the General Laws or were granted tenure in their positions as provided by section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential positions, are hereby transferred to the state 911 department, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation or benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either held a permanent appointment in a position classified under chapter 31 of the General Laws or was granted tenure in a position pursuant to 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 under chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall confer upon any employee any right not held immediately before the date of the transfer, or prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date;

(b) all petitions, requests, investigations and other proceedings appropriately and duly brought before the statewide emergency telecommunications board or duly begun by the transferor agency and pending before it prior to the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the state 911 department;

(c) all orders, rules and regulations duly made and all approvals duly granted by the statewide emergency telecommunications board, which were 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 state 911 department;

(d) 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 were in the custody of the statewide emergency telecommunications board shall be transferred to the state 911 department;

(e) all duly existing contracts, leases and obligations of the statewide emergency telecommunications board shall continue in effect but shall be assumed by the state 911 de-

partment. No existing right or remedy of any character shall be lost, impaired or affected by this act; and

(f) all references in any general or special law to the statewide emergency telecommunications board or a principal officer thereof shall be deemed to refer to the state 911 department or a principal officer thereof.

**SECTION 19.** The regulations required to be adopted under subsection (a) of section 18H of chapter 6A of the General Laws by the state 911 department shall take effect on July 1, 2009 and providers of prepaid wireless service shall be subject to said section 18H of said chapter 6A, except for subsection (g) of said section 18H of said chapter 6A on and after July 1, 2009. Subsection (g) of said section 18H of said chapter 6A shall take effect on the effective date of this act.

**SECTION 20.** The first report required to be filed under subsection (j) of section 18B of chapter 6A of the General Laws shall be filed not later than June 30, 2011.

**SECTION 21.** Section 15 of this act shall take effect on February 1, 2009.

Approved July 31, 2008.

## **Chapter 224. AN ACT RELATIVE TO ISSUING LICENSES TO CARRY FIREARMS TO LAW ENFORCEMENT OFFICERS.**

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

Section 131 of chapter 140 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “authority”, in line 99, the following words:- or any law enforcement officer employed by the licensing authority.

Approved July 31, 2008.

## **Chapter 225. AN ACT RELATIVE TO ANTIQUE CARS.**

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

The first paragraph of section 13A of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following clause:-

(f) the side facing seat on which the factory did not install a seat belt in any car owned for the purpose of antique collection.

Approved July 31, 2008

























